

IN THE UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF TEXAS
 EL PASO DIVISION
 VOLUME 2 OF 9

| | | |
|--------------------------------|-----|----------------------------|
| LULAC, et al., |) (| EP:21-CR-259-DCG-JES-JVB |
| |) (| (Lead Case) |
| Plaintiffs, |) (| |
| |) (| |
| ROY CHARLES BROOKS, et al., |) (| EP:21-CV-00991-DCG-JES-JVB |
| |) (| |
| Plaintiffs, |) (| |
| |) (| |
| vs. |) (| EL PASO, TEXAS |
| |) (| |
| GREG ABBOTT, in his official |) (| |
| capacity as Governor of Texas, |) (| |
| et al., |) (| |
| |) (| January 25th, 2022 |
| Defendants. |) (| (9:02 a.m. to 12:57 p.m.) |

HEARING ON BROOKS PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

FIFTH CIRCUIT JUDGE JERRY EDWIN SMITH
 U.S. DISTRICT JUDGE DAVID C. GUADERRAMA
 U.S. DISTRICT JUDGE JEFFREY V. BROWN

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| CHRONOLOGICAL INDEX | | | | |
|--|---------------|--------------|------------------|-------------|
| VOLUME 2 of 9 | | | | |
| JANUARY 25, 2022 (9:02 a.m. to 12:57 p.m.) | | | PAGE | VOL. |
| Announcements. | | | 4 | 2 |
| <u>PLAINTIFF'S WITNESSES:</u> | <u>DIRECT</u> | <u>CROSS</u> | <u>VOIR DIRE</u> | <u>VOL.</u> |
| RICK SVATORA | 9 | 24 | -- | 2 |
| SERGIO DE LEON | 41,59 | 52,61 | -- | 2 |
| ROY BROOKS | 62 | 75 | -- | 2 |
| DR. MATT BARRETO | 97 | -- | -- | 2 |
| Court Reporter's Certificate | | | 144 | 2 |

09:02:17 1 (Open court.)

09:02:17 2 THE COURTROOM DEPUTY: EP:21-CV-259, LULAC, et al vs.
09:02:30 3 Greg Abbott, et al.

09:02:33 4 THE COURT: And on the motion for preliminary
09:02:35 5 injunction as to Senate District 10, announcement please.

09:02:39 6 MR. DUNN: Good morning, Your Honors. This is Chad
09:02:46 7 Dunn on behalf of the Brooks plaintiffs. Joining me at counsel
09:02:51 8 table is Gaber, Danahy, Waknin and Gaines.

09:02:55 9 JUDGE GUADERRAMA: And will we be hearing from other
09:02:57 10 counsel?

09:03:00 11 MR. DUNN: This should be all.

09:03:02 12 JUDGE GUADERRAMA: Just make your announcements again
09:03:05 13 once you start to ask questions, so we have a record of who's
09:03:09 14 asking.

09:03:09 15 Thank you, Mr. Dunn.

09:03:15 16 MR. SWEETEN: Patrick Sweeten on behalf of the State
09:03:21 17 defendants. With me today are co-counsels, Will Thompson,
09:03:26 18 Christopher Hilton, De Sorbo, Hudson, Corbello and Kathleen
09:03:32 19 Hunker. We also have technical assistance from Brian
09:03:38 20 Christopher.

09:03:39 21 Thank you, Mr. Sweeten.

09:03:39 22 JUDGE GUADERRAMA: Mr. Dunn, do you care to make an
09:03:42 23 opening statement?

09:03:43 24 MR. DUNN: Your Honor, the plaintiffs intend to waive
09:03:49 25 opening statement and get to the evidence. We believe we've

09:03:51 1 sort of laid out the best opening we can in the papers before
09:03:51 2 the Court.

09:03:51 3 Yes. Apologies.

09:03:57 4 But there are a couple of housekeeping questions we
09:03:59 5 might pose to the Court if now is an appropriate time?

09:03:59 6 JUDGE GUADERRAMA: Yes, sir.

09:04:05 7 MR. DUNN: The first issue is the Court -- an order
09:04:06 8 that invoked the rule. And we just want to be make sure that
09:04:12 9 our understanding of the rule was followed and that we follow
09:04:14 10 it. We'll have clients and experts in the room, but other than
09:04:19 11 that, nobody else in the room, and we want to make sure that's
09:04:22 12 the Court's direction.

09:04:24 13 JUDGE SMITH: By clients, you mean parties to the
09:04:27 14 case?

09:04:27 15 MR. DUNN: Yes, sir, names and parties.

09:04:27 16 JUDGE GUADERRAMA: All right. Parties and experts are
09:04:31 17 exempted from the rule.

09:04:33 18 MR. DUNN: All right.

09:04:33 19 The second piece is that parties have exchanged
09:04:35 20 objections to exhibits. There are a number, unfortunately. We
09:04:39 21 conferred by telephone a few times over the weekend. We intend
09:04:43 22 to confer at lunch. We expect this morning there'll only be one
09:04:48 23 exhibit and so we can deal with that. But before we engage in
09:04:52 24 additional negotiations over the exhibits, I wanted to inquire
09:04:56 25 with the Court if it intended -- what I've experienced in a

09:04:59 1 bunch of bench trials is the Court admits the exhibits subject
09:05:02 2 to objections and then decides later if it's going to use the
09:05:03 3 exhibit to rule on the objection or if you want us to argue
09:05:06 4 those out or do it the old fashioned way and, you know, serve up
09:05:11 5 every exhibit with the witnesses.

09:05:13 6 JUDGE GUADERRAMA: I think that we -- if you -- we
09:05:16 7 have your objections on paper. We know what those are. We'll
09:05:20 8 take those under advisement and make our rulings. We have an
09:05:23 9 idea of how that will go from the paper, but once we see the
09:05:27 10 testimony that may change.

09:05:29 11 MR. DUNN: Understand.

09:05:29 12 Then in that case, subject to the objections that
09:05:31 13 defendants have made that we would move admission of Plaintiff's
09:05:35 14 Exhibit 1 through 105.

09:05:37 15 JUDGE GUADERRAMA: And subject to your objection,
09:05:39 16 Mr. Sweeten?

09:05:40 17 MR. SWEETEN: Your Honor, we object to several of
09:05:43 18 their exhibits. We have exchanged the basis for those
09:05:46 19 objections. We can provide those specific objections to the
09:05:51 20 Court.

09:05:51 21 Do you have a copy now to give.

09:05:53 22 JUDGE GUADERRAMA: I think you provided those, had you
09:05:55 23 not?

09:05:57 24 MR. HILTON: Chris Hilton for the defendants, Your
09:05:59 25 Honor. We have not filed our exhibits, yet. Now we exchanged

09:06:02 1 them between counsel. We can certainly file objections by the
09:06:05 2 end the day if this the procedure that the Court would want to
09:06:08 3 use.

09:06:08 4 JUDGE GUADERRAMA: Okay. It seems like I read some
09:06:11 5 objections from the defense.

09:06:14 6 MR. HILTON: We did file objections -- additional
09:06:18 7 objections from additional exhibits.

09:06:19 8 JUDGE GUADERRAMA: I understand. So we'll take that
09:06:21 9 ruling under advisement.

09:06:25 10 MR. DUNN: So 1 and 105 are not admitted at this point
09:06:28 11 or are they admitted subject to objection.

09:06:29 12 JUDGE GUADERRAMA: We're going to consider them as if
09:06:30 13 they were admitted, but we'll make our rulings once we hear all
09:06:35 14 of the evidence.

09:06:35 15 MR. DUNN: Understood, Your Honor.

09:06:36 16 I don't know if you want to proceed with potential
09:06:40 17 opening from the state or shall we call our first witness.

09:06:42 18 JUDGE GUADERRAMA: Well, normally, if you don't make
09:06:43 19 an opening, the other side doesn't make the opening until they
09:06:46 20 put on the case, but if the government wants to open now, we can
09:06:50 21 certainly hear them.

09:06:51 22 MR. SWEETEN: Your Honor, I think that we would
09:06:52 23 reserve our opening statement until the beginning of the State's
09:06:56 24 defense case.

09:06:56 25 JUDGE GUADERRAMA: Right.

09:06:57 1 All right. Mr. Dunn, who's your first witness?

09:07:01 2 MR. DUNN: We're calling Mr. Rick Svatora, by
09:07:01 3 videotaped deposition. Mr. Svatora -- in fact, each side had a
09:07:01 4 witness that contracted COVID in the last week, and so there
09:07:23 5 were to videotaped depositions and this is just one of them.

09:07:23 6 It's a videotaped deposition and I intend to announce
09:07:25 7 in between the cuts, the page and line in the transcript for
09:07:27 8 clarity of the record, but otherwise you'll see the transcript
09:07:30 9 and the witness image on the screen.

09:07:33 10 JUDGE GUADERRAMA: All right. Thank you, sir.

09:07:34 11 MR. SWEETEN: Your Honor, with respect to the video
09:07:37 12 clips that Mr. Dunn's talked about on Mr. Svatora, the way
09:07:42 13 we've done it his designation to his side will play those and
09:07:47 14 then the State has countered designations, we will play it in
09:07:51 15 place after Mr. Dunn --

09:07:52 16 JUDGE GUADERRAMA: Once he passes the witness, you'll
09:07:54 17 put on yours.

09:07:56 18 MR. SWEETEN: Yes, Your Honor.

09:07:57 19 JUDGE GUADERRAMA: Okay.

09:07:57 20 MR. DUNN: Let me revise that. Perhaps I was
09:07:58 21 mistaken. I was putting your part in and ours.

09:08:03 22 MR. SWEETEN: I think what we've done is separately
09:08:05 23 had ours, but we can talk about that if you've done it for this
09:08:09 24 and it has my designations, I don't have any objections to just
09:08:11 25 playing the whole thing.

09:08:12 1 JUDGE GUADERRAMA: All right. So if -- and if there's
09:08:14 2 anything you are not satisfied, if you want to add to it if your
09:08:18 3 parts aren't in there, then you'll have an opportunity to put
09:08:20 4 those on when you have your opportunity.

09:08:22 5 MR. SWEETEN: Thank you, the Court.

09:08:28 6 JUDGE GUADERRAMA: All right.

09:09:00 7 MR. DUNN: Your Honor, there'll be one exhibit,
09:09:04 8 Brooks's Exhibit Number 23. If you'd like to locate it in your
09:09:09 9 binders. It will also be shown in the testimony.

09:09:13 10 The first cut to this deposition is page 4 line 8, to
09:09:14 11 page 4 line 12.

09:09:14 12 (Videotaped deposition; Brook's Exhibit Number 23).

09:09:14 13 RICK SVATORA,

09:09:14 14 DIRECT EXAMINATION BY PLAINTIFF

09:09:14 15 BY MS. DANAHY:

09:09:25 16 Q. Good morning.

09:09:27 17 A. Erik Richard Svatora.

09:09:28 18 Q. And do you go by a nickname, Mr. Svatora?

09:09:31 19 A. I've gone by Rick all my life.

09:09:35 20 (Videotaped deposition stops).

09:09:35 21 MR. DUNN: The next cut is page 5, line 22, to page 6,
09:09:39 22 line 6.

09:09:46 23 (Videotaped deposition resumes).

09:09:46 24 BY MS. DANAHY:

09:09:46 25 Q. How are you currently employed?

09:09:48 1 A. I work for the State Senate for Senator Beverly
09:09:53 2 Powell.

09:09:53 3 Q. And what's your title?

09:09:54 4 A. I am Deputy Chief of Staff.

09:09:56 5 Q. How long have you worked in the Senate?

09:09:58 6 A. In the Senate, since 1995.

09:10:01 7 Q. And how long have you worked for Senator Powell?

09:10:06 8 A. Since January 2019.

09:10:09 9 Q. Um...

09:10:12 10 (Videotaped deposition stops).

09:10:12 11 MR. DUNN: The next excerpt is page 6, line 13, to
09:10:15 12 page 21, line 22.

09:10:19 13 (Videotaped deposition resumes).

09:10:19 14 BY MS. DANAHY:

09:10:19 15 Q. Um, how are you currently -- um, in your role as an
09:10:26 16 Senator Powell's Deputy Chief of Staff, did you ever meet with
09:10:29 17 staff of the Senate Redistricting Committee in the 2020 round of
09:10:34 18 redistricting?

09:10:35 19 A. I did once.

09:10:36 20 Q. And when was that?

09:10:37 21 A. That was in February, 2020.

09:10:39 22 Q. Who was at that meeting?

09:10:42 23 A. Gary Jones, Senator Powell's Chief of Staff, myself,
09:10:47 24 Sean Oppermann, the Chief of Staff of redistricting and Chief of
09:10:54 25 State Affairs and another state affairs redistricting staff.

09:11:00 1 THE COURT REPORTER: I'm sorry. Another State
09:11:01 2 Affairs...

09:11:01 3 THE WITNESS: It was in the State Affairs Office.
09:11:03 4 They had just started a redistricting committee at Senator
09:11:09 5 Oppermann's Chair of State Affairs.

09:11:09 6 BY MS. DANAHY

09:11:09 7 Q. And you had said one other person in the room. I
09:11:12 8 think the Court reporter missed up?

09:11:13 9 A. A female staffer. I don't recall her name.

09:11:16 10 Q. Where was the -- the -- this meeting?

09:11:22 11 A. It was in the Sam Houston building which was adjacent
09:11:26 12 to the Texas Capitol.

09:11:27 13 Q. And where was everybody in the room? What was the set
09:11:31 14 up?

09:11:31 15 A. Like I side it was in the State Affairs offices, and
09:11:35 16 when you walk in the room, it was toward the back. There was a
09:11:40 17 round table in the right corner.

09:11:43 18 Q. And you-all sat around that table?

09:11:46 19 A. The four of us did, correct.

09:11:47 20 Q. Were there any documents or materials in the room?

09:11:51 21 A. There were maps, colored maps that I think were
09:11:55 22 two-sided that were in the middle of the table, but they were
09:11:59 23 not the subject to conversation.

09:12:02 24 Q. Who spoke at the meeting?

09:12:04 25 A. The committee director, Sean Oppermann, spoke for

09:12:09 1 almost the entire meeting. There were a couple of minor
09:12:12 2 questions that Gary and I had along the way, and the other
09:12:18 3 staffer maybe made one sentence -- phrase or sentence when we
09:12:23 4 first started, but that was it.

09:12:25 5 Q. What did Mr. Oppermann say during this meeting?

09:12:29 6 A. He more or less broad-brush went over the process, the
09:12:34 7 redistricting process. This was early in. We talked a little
09:12:39 8 bit about the preliminary data and the ACS data and how it would
09:12:45 9 affect Senator Powell's district and then talked about hearings
09:12:48 10 and resources on the statewide level and national level.

09:12:53 11 Q. Were you given anything by Mr. Oppermann during the
09:12:56 12 meeting?

09:12:56 13 A. We -- again we received some maps, which we did not
09:13:02 14 discuss and walked away with them after the meeting.

09:13:05 15 Q. Did Mr. Oppermann say anything during the meeting
09:13:09 16 about resources that were available for the redistricting
09:13:12 17 process?

09:13:12 18 A. He did. He said, obviously, Jeff Archer with
09:13:17 19 legislative counsel. He mentioned the Attorney General's
09:13:20 20 office. And he also mentioned the NCSL, National Conference of
09:13:24 21 the State Legislature.

09:13:25 22 Q. Was there anything specific about that conversation
09:13:27 23 that stood out to you?

09:13:28 24 A. In terms of the population data? I mean, the most
09:13:37 25 significant part of this, in addition to talking kind of about

09:13:41 1 the -- any kind of legal implications proceeding through the
09:13:46 2 redistricting process.

09:13:47 3 Q. And what was your general takeaway from the meeting
09:13:50 4 itself?

09:13:53 5 MR. SWEETEN: Objection form.

09:13:55 6 BY MS. DANAHY

09:13:56 7 Q. Go ahead.

09:13:56 8 MR. SWEETEN: You can answer.

09:13:57 9 THE WITNESS: I'm sorry.

09:13:59 10 A. Yeah, it was positive. It was a typical Senate staff
09:14:04 11 meeting and we all kind of talked nuts and bolts. Sean gave
09:14:09 12 every indication that it was going to be a pretty smooth
09:14:13 13 process, that things were not changed too much with the district
09:14:16 14 and we walked away feeling pretty good about it.

09:14:20 15 BY MS. DANAHY

09:14:20 16 Q. What did Mr. Oppermann say about SD-10 during this
09:14:27 17 meeting?

09:14:29 18 MR. SWEETEN: Objection. Hearsay.

09:14:31 19 A. He said that the populations changes in SD-10 is one
09:14:36 20 of the things we talked about on the ACS data, is that
09:14:36 21 population in SD-10 had tracked more or less the population
09:14:42 22 increases were today and were very close to ideal. And Sean
09:14:44 23 indicated that there shouldn't be any movement at all in the
09:14:50 24 boundaries.

09:14:52 25 MS. DANAHY: Can you tell me what the objection was?

09:14:54 1 MR. SWEETEN: I said it was hearsay.

09:14:57 2 MS. DANAHY: Hearsay?

09:15:02 3 BY MS. DANAHY:

09:15:06 4 Q. Was there anything else that you discussed during that
09:15:09 5 meeting that you recall?

09:15:10 6 A. Again, we talked a little bit about the --

09:15:13 7 MR. SWEETEN: Same objection.

09:15:15 8 I'm sorry. You can answer.

09:15:17 9 A. We talked a little bit about the potential legal
09:15:20 10 ramifications from any court procedures driving out of the
09:15:25 11 legislative redistricting process.

09:15:28 12 BY MS. DANAHY:

09:15:28 13 Q. Are you aware of any record that was kept of that
09:15:30 14 meeting?

09:15:31 15 A. I am not.

09:15:31 16 Q. Did you take any notes during that meeting?

09:15:36 17 A. I did.

09:15:37 18 Q. I'm going to go ahead and show you plaintiff's
09:15:43 19 Exhibit 23.

09:15:44 20 Do you see that there in the front of you?

09:15:55 21 A. I do.

09:15:57 22 Q. And do you see that that's labeled Plaintiff's
09:16:01 23 Exhibit 23?

09:16:02 24 A. Yes, I do.

09:16:03 25 Q. And I'll just represent that, for the record, this is

09:16:07 1 Brook's plaintiff's trial Exhibit 23 and it was attached to the
09:16:11 2 preliminary injunction motion as Exhibit 4-A.

09:16:16 3 Can you tell me what this document is?

09:16:18 4 A. This is simply my notes from my meeting from my
09:16:23 5 notebook at the time. I go through many notebooks as a Senate
09:16:27 6 staffer and this is the one that I was using. And I just picked
09:16:30 7 up where I left off on the previous notes.

09:16:33 8 Q. And if you turn to the final page, what's on this
09:16:38 9 page?

09:16:43 10 (Videotaped deposition blacked out at 9:16:43 a.m. and
09:16:48 11 resumed at 9:17:31 a.m.).

09:17:31 12 A. It will be difficult to read.

09:17:33 13 BY MS. DANAHY:

09:17:33 14 Q. And did you make this transcription?

09:17:36 15 A. I did.

09:17:37 16 Q. Is this an accurate representation of what was in the
09:17:41 17 handwritten notes?

09:17:42 18 A. It is.

09:17:42 19 Q. Can you give us a sense of the volume of the notes
09:17:46 20 that you took?

09:17:47 21 A. Very brief. It was a pretty short meeting so I picked
09:17:51 22 up -- like I said, I picked up where I left previous notes. I
09:17:55 23 finished that page. So there's a little bit at the bottom of
09:17:58 24 the page and then I went onto the top of the next page.

09:18:01 25 Q. Now, you took a number of notes, but I want to focus

09:18:09 1 on two. I want to focus, first, your attention here just on the
09:18:16 2 right it says page two where you -- um -- there's this portion
09:18:18 3 with the word "privilege." What is the exact note you took
09:18:21 4 here?

09:18:22 5 A. Attorney/client privilege is less waived than
09:18:27 6 legislative -- ledge privilege; short for legislative.

09:18:30 7 Q. What do you recall that you were recording there?

09:18:34 8 A. This was a direct statement from Sean. It wasn't
09:18:39 9 prompted. We were listening to him and taking notes and taking
09:18:43 10 notes. And he was talking in the context of challenges and what
09:18:48 11 he was going through, I believe -- I mean, I was just writing it
09:18:52 12 down, but he was saying that, you know, legislative privilege
09:18:56 13 and attorney privilege are not on the same plain as attorney
09:19:01 14 privilege, is not waived as often as say privilege as a
09:19:08 15 legislative staff.

09:19:09 16 MR. SWEETEN: Objection to the form and objection to
09:19:11 17 hearsay, but go ahead.

09:19:14 18 MS. DANAHY: Can you tell me what the form objection
09:19:17 19 was?

09:19:17 20 MR. SWEETEN: You're asking him to translate the notes
09:19:20 21 that he took and then you're -- what you're having him state is
09:19:24 22 hearsay.

09:19:25 23 MS. DANAHY: So it's a hearsay objection?

09:19:28 24 MR. SWEETEN: Its both.

09:19:29 25 MS. DANAHY: I'm sorry. I don't understand what the

09:19:34 1 form objection is.

09:19:34 2 MR. SWEETEN: You're basically asking him to translate
09:19:35 3 what -- attorney-client privilege is less waived than means at
09:19:39 4 vis-a-vis ledge privilege, and that goes with his -- that goes
09:19:45 5 with the objection of hearsay, so it's kind of one thing.

09:19:48 6 MS. DANAHY: Okay. So it's a hearsay objection?

09:19:51 7 MR. SWEETEN: The objection is what I stated.

09:19:55 8 MS. DANAHY:

09:19:55 9 Q. I'm going to go ahead and have you focus next on the
09:19:59 10 point in your notes that starts with the phrase Sect II. What
09:20:04 11 does that say? What does that say specifically there in your
09:20:08 12 notes?

09:20:08 13 A. That was my shorthand for Section 2 of the Voting
09:20:12 14 Rights Act. What Sean was doing is he was talking about
09:20:14 15 potential challenges with the redistricting process and maps,
09:20:20 16 and he said that he thought the most challenges would come under
09:20:24 17 the Section 2 clause of the Voting Rights Act, specifically
09:20:27 18 cracking and packing, and obviously I put a little arrow and I
09:20:31 19 said that would be where most of challenges would come from, and
09:20:34 20 this is again taking notes from what Sean was telling us.

09:20:38 21 Q. Just for the record, can you tell us what that says
09:20:42 22 there Section 2?

09:20:44 23 A. Same section?

09:20:46 24 THE COURT REPORTER: And can you enlarge that just a
09:20:48 25 little bit?

09:20:50 1 MS. DANAHY: I can do my best.

09:20:54 2 Is that a little bit better?

09:20:57 3 A. Okay. So my notes say Section 2, cracking and packing
09:21:03 4 most of challenges.

09:21:05 5 Q. Okay. And again, what did you understand that note to
09:21:10 6 be recording?

09:21:10 7 A. It was literally a transcription -- or not a
09:21:14 8 transcription. That's wrong. It was my notes, my recollections
09:21:18 9 of what Sean told us in terms of where the challenges would come
09:21:23 10 from.

09:21:24 11 Q. And then finally if you go all the way to the bottom,
09:21:28 12 there's something in quotes. Can you read that for us please?

09:21:31 13 A. So in quotes: Very little change would be necessary
09:21:35 14 for you-all being close to ideal size.

09:21:39 15 Q. I'm going to stop you right there for a second.

09:21:41 16 What was your understanding of what you were recording
09:21:45 17 there?

09:21:46 18 MR. SWEETEN: Same objection.

09:21:46 19 BY MS. DANAHY:

09:21:50 20 Q. Go ahead and answer the question. I can restate it,
09:21:55 21 if you need me to?

09:21:58 22 A. Go ahead and the answer.

09:22:01 23 MR. SWEETEN: Yeah.

09:22:02 24 A. Okay. So it was -- with the data that we had at the
09:22:07 25 time -- it was February 2020 -- was the ACS survey on

09:22:11 1 population, which had color gradations based on ideal size per
09:22:18 2 Senate districts, so within that 5 percent. So what he's saying
09:22:24 3 there is that we're within ideal size. As I recall we were at
09:22:30 4 the time SD-10 was something like 1.5 percent above the ideal,
09:22:36 5 so there was -- there were plates inside of the range, and
09:22:39 6 that's what Sean was saying, very little change would be
09:22:42 7 necessary because of that population.

09:22:46 8 BY MS. DANAHY:

09:22:49 9 Q. You can go ahead. If you could please read the rest
09:22:51 10 of that note.

09:22:52 11 A. Sure. I would not anticipate much movement for you
09:22:57 12 other than slightly tweaking your district. And then I drew an
09:23:01 13 arrow indicating that came from Sean.

09:23:06 14 THE COURT REPORTER: I'm sorry. Indicating...

09:23:07 15 A. That quote came from Sean Oppermann.

09:23:10 16 BY MS. DANAHY:

09:23:10 17 Q. What was your notes recording in that portion of it?

09:23:18 18 MR. SWEETEN: Objection, asked and answered.

09:23:21 19 BY MS. DANAHY:

09:23:21 20 Q. You can answer.

09:23:22 21 A. Could you restate the question? I didn't hear all of
09:23:29 22 that.

09:23:30 23 Q. Sure.

09:23:30 24 You just read the quote that says I wouldn't
09:23:32 25 anticipate much movement for you other than slightly tweaking

09:23:34 1 your district, correct?

09:23:36 2 A. Correct.

09:23:36 3 Q. And what did you understand that note to be recorded?

09:23:40 4 A. Exactly what it says, ma'am. I'm sorry. Because it
09:23:44 5 was within the ideal size, he was telling us that not much would
09:23:48 6 change in the district.

09:23:50 7 Q. And if we go up -- oh, I'm sorry. Before we do that,
09:23:56 8 I just want to mention -- and then you said there's this little
09:23:59 9 arrow pointing to Sean. Can you tell me what that is recording?

09:24:03 10 A. That's my shorthand for the derivation of the quote,
09:24:10 11 which Sean was the one who said it.

09:24:12 12 Q. And I want to go up and look back at the handwritten
09:24:17 13 notes here in Exhibit 23. Had -- were these taken with your own
09:24:21 14 hand?

09:24:21 15 A. They were.

09:24:22 16 Q. Were they taken right there in the room while the
09:24:25 17 meeting was happening?

09:24:25 18 A. The notebook was in front of me. I was sitting to the
09:24:29 19 left with Sean taking notes as he was speaking.

09:24:32 20 Q. Do these notes accurately reflect your recollection of
09:24:36 21 the meeting with Mr. Oppermann?

09:24:38 22 A. Absolutely.

09:24:39 23 Q. And is this a true and correct copy of your notes and
09:24:42 24 transcription that you made of them?

09:24:44 25 A. Yes, they are.

09:24:45 1 Q. Do you regularly take notes at meetings in your role
09:24:48 2 as Deputy Chief of Staff?

09:24:50 3 A. I do.

09:24:50 4 Q. And then have you -- these notes been altered by you
09:24:54 5 in any way since the notes themselves were taken?

09:24:57 6 A. No. They stayed that way, you know, since
09:25:01 7 February 2020.

09:25:02 8 Q. After this meeting, when you returned to your office,
09:25:07 9 what were you thinking about the fact of the upcoming
09:25:11 10 redistricting process on your constituents in SD-10?

09:25:16 11 MR. SWEETEN: Objection. Relevance.

09:25:17 12 BY MS. DANAHY:

09:25:18 13 Q. Go ahead and answer.

09:25:19 14 A. Again, we felt pretty optimistic about it based on the
09:25:24 15 way that we departed and closed the meeting and based on what
09:25:28 16 Sean had told us.

09:25:29 17 Q. And were you optimistic?

09:25:33 18 MR. SWEETEN: Same objection.

09:25:34 19 BY MS. DANAHY:

09:25:35 20 Q. Go ahead and answer.

09:25:36 21 A. We were 1 because I mean this is a district that I'd
09:25:41 22 had some experience with and I was encouraged that based on what
09:25:47 23 Sean told them that not much would change.

09:25:50 24 Q. You just said you were familiar with district -- with
09:25:57 25 SD-10; is that right?

09:25:59 1 A. Correct.

09:25:59 2 Q. At the end of the redistricting process, would you
09:26:02 3 describe the changes that were made to the district as, quote,
09:26:05 4 "slight tweaking," as you were told in that meeting?

09:26:09 5 A. Under no circumstances would I think that that was
09:26:13 6 tweaking.

09:26:13 7 Q. What ended up happening in the 2021 redistricting
09:26:18 8 process to SD-10?

09:26:20 9 MR. SWEETEN: Objection to form.

09:26:22 10 BY MS. DANAHY:

09:26:23 11 Q. Go ahead AND answer.

09:26:24 12 MR. SWEETEN: Objection, vague. Go ahead.

09:26:27 13 A. That's -- there were several changes made. Counties
09:26:30 14 were added outside of Tarrant County. In the end, I think seven
09:26:35 15 other rural counties were added in addition to what was left of
09:26:40 16 SD-10 in the southern Tarrant County.

09:26:43 17 THE COURT REPORTER: I am sorry. You trailed off at
09:26:46 18 the end. What was left of SD-10?

09:26:48 19 THE WITNESS: What was left of SD-10 in southern
09:26:52 20 Tarrant County.

09:26:53 21 MS. DANAHY: Patrick, I didn't hear. Was that
09:26:56 22 objection that it was vague.

09:26:57 23 MR. SWEETEN: Yeah. The objection was form and vague.

09:26:59 24 MS. DANAHY: What was the form objection, please?

09:27:01 25 MR. SWEETEN: I mean where -- restate the question.

09:27:07 1 MS. DANAHY: I'll go ahead and restate.

09:27:09 2 BY MS. DANAHY:

09:27:10 3 Q. What changes were made to SD-10 during the 2021
09:27:14 4 redistricting process?

09:27:15 5 A. Okay. So now the questions is: What changes were
09:27:19 6 made to SD-10; is that right?

09:27:22 7 Q. I've restated the question, Mr. Svatora. Can you
09:27:26 8 answer that question?

09:27:27 9 A. What changes were made between the time of the meeting
09:27:30 10 and the time that the bill was passed in the Senate in October?

09:27:34 11 Q. No. What changes were made to the final district when
09:27:38 12 SD-10 was approved in the Legislature for the 2021
09:27:42 13 redistricting?

09:27:42 14 A. In October of 2021?

09:27:44 15 Q. Correct.

09:27:46 16 A. Several rural counties were added going west and south
09:27:50 17 from Tarrant County and minority populations. The northern part
09:27:54 18 of the district were put into other -- were put into other
09:27:59 19 districts, if that's what you're asking.

09:28:01 20 Q. Sure. How would you describe the changes that were
09:28:04 21 made to SD-10?

09:28:06 22 A. They were dramatic. I mean they -- they split apart
09:28:14 23 traditional communities, put them into -- into other Senate
09:28:20 24 districts and added counties in other communities that had been
09:28:26 25 part of several other rural kind-of-districts, and it was -- it

09:28:33 1 was something I had never seen.

09:28:36 2 Q. Were you told the truth in that meeting about what
09:28:40 3 would happen to SD-10 during the redistricting process?

09:28:44 4 MR. SWEETEN: Objection to the form. Objection to
09:28:46 5 speculation. Objection hearsay.

09:28:49 6 Go ahead.

09:28:49 7 BY MS. DANAHY:

09:28:50 8 Q. Go ahead and answer.

09:28:51 9 A. If the truth is that the district would only be
09:28:56 10 tweaked, I was not told the truth.

09:28:59 11 MS. DANAHY: What was the form objection, Patrick?

09:29:03 12 MR. SWEETEN: The objection is you're asking was he
09:29:06 13 told the truth in the meeting. I think that's your question,
09:29:09 14 right? So I mean objection calls for speculation, objection
09:29:14 15 hearsay. We'll leave it at that.

09:29:19 16 MS. DANAHY: Okay. I don't have any further
09:29:24 17 questions, so I'll pass the witness.

09:29:29 18 (Videotaped deposition stops).

09:29:29 19 MR. DUNN: The next and final excerpt is page 22 to
09:29:33 20 line 1, to page 40, line 4.

09:29:33 21 (Videotaped deposition resumes).

09:29:33 22 ERIK RICHARD SVATORA,

09:29:33 23 CROSS-EXAMINATION BY THE DEFENSE

09:29:33 24 BY MR. SWEETEN:

09:29:40 25 Q. So Mr. Svatora, we introduced earlier today, and as I

09:29:46 1 understand it and we are taking this deposition today on a
09:29:48 2 Saturday afternoon right before trial. As I understand it, you
09:29:53 3 had COVID-19 and so we've agreed to accommodate you on the
09:29:56 4 weekend; is that your understanding as well?

09:29:58 5 A. It is and I appreciate it. Thanks.

09:30:01 6 Q. Oh, sure. Of course. And I hope you're feeling
09:30:04 7 better, by the way Mr. Svatora?

09:30:06 8 A. Other than the Kleenex.

09:30:09 9 Q. Okay. Good. Good. Well, hang in there.

09:30:12 10 So I do have some questions based upon some of the
09:30:15 11 questions that counsel asked you today and I want to start with
09:30:18 12 the meeting itself.

09:30:20 13 Now you've only described this one meeting in the
09:30:23 14 affidavit, and that -- and the meeting that we're talking about
09:30:27 15 you dated as being in February of 2020; is that correct?

09:30:32 16 A. That's correct.

09:30:32 17 Q. So I want to kind of focus on that meeting.

09:30:36 18 I guess before we get too far into that, though, just
09:30:41 19 so the Court is clear, you are currently under the employ of
09:30:47 20 Senator Powell. She is your current boss; is that correct,
09:30:51 21 Mr. Svatora?

09:30:51 22 A. Yes.

09:30:51 23 Q. Okay. Very good.

09:30:52 24 And you have worked with her since January of 2019,
09:30:56 25 right?

09:30:56 1 A. Yes.

09:30:57 2 Q. Okay. So now let's focus on the one meeting that
09:31:01 3 we've talked about today, and that was February 2020.

09:31:05 4 Now, first of all, that meeting occurred -- I mean,
09:31:11 5 just to give it some context -- occurred before the COVID-19
09:31:15 6 pandemic even began in the U.S., correct?

09:31:19 7 A. Depends on how you define it. It was around us and it
09:31:24 8 was coming, but it hadn't impacted us, yet.

09:31:27 9 Q. Right. So we hadn't shut down in the country, et
09:31:30 10 cetera, so this is how far -- this is how long ago was February,
09:31:35 11 2020?

09:31:35 12 A. Yeah.

09:31:36 13 Q. Okay. All right. And so that one meeting you were
09:31:39 14 involved in, and you sat in, that there were two staffers that
09:31:44 15 you talked about as being Senator Huffman's office. One of
09:31:48 16 those was Amy Befield, correct?

09:31:51 17 A. As I said I don't recall the name.

09:31:54 18 Q. Okay. Your affidavit states it was Amy Befield. You
09:31:58 19 would not have any reason to dispute that that's correct, right?

09:32:02 20 A. I don't recall her name now. Maybe it's COVID -- I
09:32:06 21 don't know --

09:32:07 22 Q. And the other person in there was Mr. Oppermann who
09:32:10 23 was the Chief of Staff for Senator Huffman, correct?

09:32:14 24 A. He was I think maybe the director at the time.

09:32:18 25 Q. Okay. But he also employed by Senator Huffman as

09:32:24 1 well, isn't he?

09:32:24 2 A. Correct.

09:32:25 3 Q. All right. So to be clear, in the meeting, Senator
09:32:31 4 Huffman was not present in that meeting, correct?

09:32:33 5 A. Correct.

09:32:34 6 Q. And your Senator, Senator Powell, was not present
09:32:40 7 either, correct?

09:32:41 8 A. Correct.

09:32:41 9 Q. And you were getting information, I think you said,
09:32:47 10 about the district -- the potential district population
09:32:52 11 physician, correct?

09:32:54 12 A. Correct.

09:32:55 13 Q. And those population figures, you would agree, were
09:32:59 14 not based on census numbers, right?

09:33:04 15 A. Sean said that there were American Community Survey,
09:33:08 16 that's correct.

09:33:08 17 Q. Right. So they're not based on the decennial Census
09:33:14 18 in place at that time that was going on in your 2020 from the
09:33:17 19 U.S. Census Bureau, right?

09:33:22 20 A. Right.

09:33:22 21 Q. Okay. And in fact the actual official census data did
09:33:27 22 not get released -- was not sent to the State of Texas over a
09:33:30 23 year and a half later, sometime in August of 2021, correct?

09:33:35 24 A. I don't know.

09:33:36 25 Q. Okay. Would you have any reason to dispute that the

09:33:41 1 Census figures were not released until legacy files were sent in
09:33:47 2 August of 2021 and then the ultimate Census figures were
09:33:52 3 sent in September of '21, correct?

09:33:55 4 A. Sir, I can tell you we didn't have the Census numbers
09:33:58 5 at the meeting. We had the --

09:33:58 6 THE COURT REPORTER: I'm sorry. You kind of trailed
09:34:01 7 off there. We didn't have the Census going into the meeting.

09:34:05 8 THE WITNESS: I'm sorry to use acronyms. The American
09:34:09 9 Community Survey, ACS numbers are what we were talking about.

09:34:10 10 THE COURT REPORTER: I'm sorry. You're cutting off.
09:34:12 11 I can't hear you.

09:34:13 12 THE WITNESS: I'll move the laptop a little closer.

09:34:19 13 We had the ACS numbers as the subject of our meeting,
09:34:24 14 the American Community Survey numbers.

09:34:29 15 MR. SWEETEN:

09:34:30 16 Q. And not the actual Census figures during that talk,
09:34:34 17 right?

09:34:35 18 A. Correct.

09:34:35 19 Q. Now, it's the case, isn't it that redistricting, when
09:34:42 20 it's conducted in the Senate is first conducted by the senators
09:34:48 21 in the redistricting committee, correct?

09:34:51 22 A. Traditionally.

09:34:53 23 Q. Okay. And it is the senators on the redistricting
09:34:56 24 committees that make decisions about maps and vote things out of
09:35:00 25 committee, that sort of thing. It's the senators themselves

09:35:04 1 voting on these things, right?

09:35:06 2 A. The Senate -- well, correct, all of the senators have
09:35:10 3 a vote on it.

09:35:11 4 Q. Right. And it isn't the staffers, for example, that
09:35:14 5 would have the vote on redistricting, correct?

09:35:17 6 A. Correct.

09:35:17 7 Q. All right. And it's the case, isn't it, that once it
09:35:22 8 gets out of the Senate committee, then the full Senate then has
09:35:26 9 the opportunity typically to vote on redistricting legislation,
09:35:30 10 correct?

09:35:30 11 A. Correct.

09:35:31 12 Q. Again, that isn't something that's conducted -- the
09:35:34 13 voting isn't conducted by the staffers that are discussing
09:35:39 14 issues. It's by the senators themselves, right?

09:35:42 15 A. The voting, right.

09:35:43 16 Q. Right. And would agree with me that the redistricting
09:35:47 17 session didn't even commence until a year and a half after that
09:35:50 18 meeting that you've talked about that was -- that was in
09:35:54 19 February of 2020, correct?

09:35:56 20 A. I believe that there were -- that they had scheduled
09:36:04 21 regional meetings, which were by and large aborted, but I want
09:36:07 22 to say that they maybe got one or two COVID shutting down.

09:36:11 23 Q. And do you know -- do you know if the meeting that you
09:36:17 24 had in February of 2020, if other meetings were held with other
09:36:22 25 staffs to kind of update them on the upcoming redistricting

09:36:27 1 process and other things?

09:36:29 2 A. I did not discuss those with anyone else.

09:36:33 3 Q. Okay. So it could be, but you don't know one way or
09:36:38 4 the other whether Mr. Oppermann met with other Senate office,
09:36:42 5 correct?

09:36:42 6 A. I do not know.

09:36:44 7 Q. All right. Now, we talked about the fact that the --
09:36:48 8 that the census data came out sometime in the fall of 2021, and
09:36:56 9 I want to just show you, very briefly, an exhibit, which is
09:37:03 10 Exhibit No. 21, the Defendant's Exhibit 21. And I want to put
09:37:07 11 that up. If we can do a share screen. See if you can -- first,
09:37:17 12 can you see that, Mr. Svatora?

09:37:18 13 A. I can.

09:37:18 14 Q. And can you read that please?

09:37:20 15 A. Defendant's Exhibit 21?

09:37:23 16 Q. Right. And it says Map Analysis S-2100?

09:37:29 17 A. It does.

09:37:30 18 Q. I'm going to show you the first page of it, which you
09:37:33 19 would recognize as the web 100 T produced by Texas Legislative
09:37:42 20 Council, right?

09:37:42 21 A. Yes. It says that in the upper right-hand corner.

09:37:44 22 Q. I don't want to spend a whole lot of time on this
09:37:47 23 document, but I do want to show you one thing and that is that
09:37:50 24 you would agree with me that this says that the plan overall
09:37:54 25 range -- and I am going to try to mark it in yellow, so

09:37:59 1 everybody can see it, but if you follow me -- plan overall wage,
09:38:03 2 you go over to the right column on percentage, it says 32.70,
09:38:08 3 correct?

09:38:08 4 A. Correct.

09:38:09 5 Q. Okay. And you agree that this list, the smallest
09:38:13 6 district is being negative 15.33 percent?

09:38:17 7 A. Correct.

09:38:18 8 Q. And the largest district being 17.37 percent, correct?

09:38:24 9 A. Correct.

09:38:24 10 Q. And if you add those numbers together, we've got a
09:38:27 11 spread of 32.70, right?

09:38:31 12 A. I'm bad at math.

09:38:33 13 Q. Okay. Well, you would not dispute my math, would you?

09:38:37 14 A. I think you're right.

09:38:38 15 Q. Okay. So you would agree with me that when we're
09:38:41 16 drawing the Senate maps, there are 31 districts to be drawn, and
09:38:46 17 that, you know, depending on what the population is, that some
09:38:50 18 can be overpopulated and others can be underpopulated, right?

09:38:55 19 A. Correct.

09:38:55 20 Q. And you would not disagree that overpopulation or
09:39:01 21 underpopulation in other districts can cascade and impact other
09:39:05 22 districts that may have similar pop -- or the same population,
09:39:10 23 similar to the ideal population, let's say?

09:39:13 24 A. I'm not sure I understand what you just asked.

09:39:17 25 Q. Okay. Let me ask it again.

09:39:19 1 So you would not disagree that the population -- if
09:39:24 2 one district is underpopulated and one is overpopulated, that
09:39:29 3 that could cause changes to other districts that are
09:39:34 4 neighboring, correct?

09:39:36 5 MS. DANAHY: Objection. Calls for speculation.

09:39:38 6 MR. SWEETEN: Very good.

09:39:40 7 MR. SWEETEN:

09:39:40 8 Q. That's all I wanted to ask you about that document, so
09:39:43 9 I'll take that down.

09:39:44 10 Let me ask you, you would agree that there were
09:39:52 11 additional maps or additional meetings that were held regarding
09:39:57 12 the issue of redistricting between your office and Senator
09:40:08 13 Huffman's office, correct?

09:40:09 14 A. You know, I didn't track this. I wasn't in charge of
09:40:12 15 redistricting. In fact, I had nothing to do with that meeting.

09:40:16 16 Q. So you're basically telling us about the one meeting,
09:40:19 17 that's what you know. This is not an area that you focussed on,
09:40:22 18 correct?

09:40:22 19 A. Correct.

09:40:23 20 Q. All right. Let's talk about -- a little bit about --
09:40:26 21 you mentioned something about SD-10 and I want to talk about
09:40:30 22 your history. Now, this -- Senator Powell was a freshman
09:40:35 23 democrat and she was elected in 2018, correct?

09:40:40 24 A. That's correct.

09:40:41 25 Q. Okay. And obviously you must have -- knowing SD-10

09:40:46 1 and knowing she was a democratic member, you must have had a
09:40:50 2 concern as the redistricting session unfolded about potential
09:40:54 3 changes to her district?

09:40:58 4 A. As do all Senate staffers.

09:41:01 5 Q. Right. And as far as tracking those, your tracking of
09:41:07 6 the redistricting issue seized in February 2020 after the
09:41:14 7 meeting, this wasn't the issue you were in charge of, correct?

09:41:15 8 A. Correct.

09:41:15 9 Q. And you understand that it's a, you know, hearings had
09:41:20 10 not yet been held in the 2020 session when you even had this
09:41:25 11 discussion in February, correct?

09:41:29 12 A. Correct.

09:41:30 13 Q. And you knew hearings were going to be held and
09:41:32 14 certainly meetings were going to be held, correct?

09:41:34 15 A. Yes.

09:41:35 16 Q. You knew that the redistricting committee was going to
09:41:39 17 convene and have discussions and various members, they have
09:41:43 18 thoughts of they're own, correct?

09:41:47 19 A. I would assume. I can't speak for them.

09:41:50 20 Q. One thing you do know, being SD-10 and based on your
09:41:55 21 years and years of service in the Texas Senate as partnership
09:41:58 22 raises it's head in just about every single session of
09:42:02 23 redistricting, right?

09:42:06 24 A. It tended to, correct.

09:42:27 25 Q. And what was your role with Senator Davis when she

09:42:31 1 occupied SD-10?

09:42:32 2 A. I was communications director.

09:42:34 3 Q. Okay. And how long were you communications director
09:42:39 4 for Senator Wendy Davis, sir?

09:42:41 5 A. Not long; eight or nine months.

09:42:43 6 Q. And how long did you work in her employment, just the
09:42:46 7 eight to nine months?

09:42:47 8 A. Eight or nine months, through the 2013 session and a
09:42:51 9 little beyond.

09:42:52 10 Q. Okay. So -- and between that time, between Senator
09:42:59 11 Davis leaving Senate District 10, which would've been in about
09:43:04 12 2014, and 2018 there was another member that occupied SD-10, who
09:43:10 13 was the senator for SD-10, correct?

09:43:13 14 A. That's correct.

09:43:13 15 Q. And that senator was a Republican by the name of
09:43:18 16 Connie Burton, correct?

09:43:20 17 A. Correct.

09:43:20 18 Q. And you knew, Mr. Svatora, that that district -- I
09:43:25 19 mean your knowledge of SD-10, you know that's a very competitive
09:43:30 20 seat between Democrats and Republicans, right?

09:43:34 21 A. It has been, yes.

09:43:36 22 Q. All right. Now, Mr. Svatora, I want to ask you a few
09:43:59 23 other questions. I'm going to show you what I've marked as
09:44:07 24 Powell Number 9 and ask you to look at the characteristics of
09:44:07 25 the districts you are talking about today.

09:44:08 1 Let me do the share screen. Here you go. So this
09:44:18 2 is -- can you see this is?

09:44:18 3 A. Yes.

09:44:18 4 Q. Okay. Very good. And you can see that -- let's look
09:44:27 5 at the top of this. This is a web 116 produced for legislative
09:44:30 6 counsel, correct?

09:44:31 7 A. That's what it case on the upper right-hand corner.

09:44:34 8 Q. Okay. And you would agree that this shows the Senate
09:44:37 9 districts under the Benchmark plan, which is plans 2100, right?

09:44:42 10 A. Correct.

09:44:43 11 Q. And this up here lists this as being data from ACS
09:44:49 12 2015 through 2019, and it shows Citizen Voting Age Population or
09:44:57 13 CVAP, correct?

09:44:59 14 A. Correct.

09:44:59 15 Q. When we look at CVAP -- and this is under the old
09:45:05 16 map -- you agree with me the CVAP in that district is 20.4 for
09:45:10 17 Hispanic CVAP, right?

09:45:14 18 A. 20.4 percent?

09:45:18 19 Q. Yes.

09:45:18 20 A. Okay.

09:45:18 21 Q. That says that, right?

09:45:19 22 A. That's what is says.

09:45:23 23 Q. Okay. Then for black alone it says 25 percent, right?

09:45:26 24 A. Correct.

09:45:26 25 Q. And then for white alone, it says 53.9 percent,

09:45:32 1 correct?

09:45:32 2 A. Correct.

09:45:32 3 Q. You would agree with me that according to this chart
09:45:36 4 at Benchmark Senate District 10 is a majority Anglo district,
09:45:42 5 correct?

09:45:42 6 A. It's majority white. I was corrected once never to
09:45:46 7 say the "A" word --

09:45:46 8 Q. Okay.

09:45:47 9 A. -- since I'm Irish.

09:45:49 10 Q. Can you say that in a redistricting context. I have
09:45:52 11 been -- but white, Anglo, assuming those are synonyms, that
09:45:59 12 53.9 percent would make that a majority white district, correct?

09:46:03 13 A. 50 plus one is majority.

09:46:07 14 Q. There you go. Okay. All right.

09:46:11 15 Now I want to pull up your notes and make sure that
09:46:16 16 I'm clear on what they say. I've got my own copy, so I'm going
09:46:21 17 to just put it up here on the share screen.

09:46:28 18 Can you see that?

09:46:29 19 A. I can.

09:46:30 20 Q. And I'll go to the first page. Just to orient you,
09:46:35 21 but this is shows on our end that this is Exhibit 4-A that the
09:46:40 22 plaintiffs utilized; do you see that?

09:46:40 23 A. I do.

09:46:40 24 Q. Let's go to the back page which is your translation of
09:46:43 25 this.

09:46:44 1 Now, here you say, and you talked about in your direct
09:46:47 2 testimony, you say attorney/client privilege is less weighed
09:46:53 3 than less privileged. That's all it says, right?

09:46:56 4 A. That's right.

09:46:58 5 MS. DANAHY: Object to that as mischaracterizing
09:47:03 6 Mr. Svatora's testimony.

09:47:04 7 MR. SWEETEN: I can add the six in there. Let's do
09:47:07 8 that.

09:47:08 9 MR. SWEETEN:

09:47:08 10 Q. This says A. T. T. Y, dash, client privilege [sic], is
09:47:12 11 less weighed than ledge privilege [sic]. Did I read that
09:47:17 12 correctly?

09:47:18 13 A. You read that correctly.

09:47:20 14 Q. All right. And as far as -- this doesn't say who
09:47:24 15 might waive ledge privilege or when it's waived or it doesn't
09:47:30 16 give us any context as to what that means. These notes don't do
09:47:34 17 that, do they?

09:47:35 18 A. It's not a transcription. It was just taking notes
09:47:38 19 through the meeting.

09:47:39 20 Q. Right. But as far as whether this means that commonly
09:47:42 21 representatives or senators waive their privilege less, waive
09:47:47 22 their ledge privilege more than attorney/client privilege, this
09:47:55 23 doesn't give us context of what that means, these notes alone,
09:47:58 24 do they?

09:47:58 25 A. All I can tell you is that's what Sean said. Why he

09:48:04 1 brought it up, I have no idea.

09:48:06 2 Q. Here you say something, "Section II cracking-packing,
09:48:09 3 most-of-challenges." Those are what your notes say?

09:48:14 4 A. Correct.

09:48:14 5 Q. Now to be clear, obviously we didn't get into the
09:48:18 6 third special session when redistricting even began until
09:48:23 7 September 20th of 2021, correct?

09:48:25 8 A. Correct.

09:48:27 9 Q. Okay. So here, whatever this is, it's certainly
09:48:31 10 not -- you know, it doesn't tell us anything about the maps that
09:48:36 11 were to come a year and a half later. This is some statement
09:48:39 12 about -- about the commonalty of challenges, how often
09:48:47 13 challenges are raised, right?

09:48:49 14 A. Again, this was Sean's statement about where he
09:48:52 15 thought the challenges would come from.

09:48:55 16 Q. But as far as you know, obviously he was -- if this
09:48:58 17 was his statement that you're saying he transcribed, we're a
09:49:03 18 year and a half away from a map being drawn, as far as you know,
09:49:07 19 correct?

09:49:08 20 A. Correct, yeah. I'm just telling you what I wrote down
09:49:11 21 from what he said.

09:49:12 22 Q. Okay. And I want to go over some -- some more of
09:49:16 23 this, but you talk about -- drop box will share with all Senate,
09:49:24 24 what that is supposed to be?

09:49:26 25 A. What that means is not just members of the committee.

09:49:29 1 Committees generally have testimony, agendas, information that
09:49:34 2 was -- that was uploaded that wasn't even part of testimony. In
09:49:39 3 general, committees all create drop boxes for committee staff to
09:49:46 4 access, so they can prepare their bosses. What Sean is saying
09:49:50 5 there, not just the committee would have access to the drop box,
09:49:55 6 but all members of the Senate and redistricting staff would have
09:49:59 7 that access.

09:50:00 8 Q. Okay. Under and American Community Survey it says
09:50:03 9 last estimates. That talks about estimates there, correct?

09:50:10 10 A. Right.

09:50:11 11 Q. All right. Then we talked about the statement about
09:50:14 12 necessary. So you wrote here "very little change would be
09:50:17 13 necessary." Is that what your -- is that what you wrote, sir?

09:50:21 14 A. That's his quote.

09:50:23 15 Q. Right. And certainly you didn't walk away from that
09:50:26 16 meeting thinking that, well, the whole SD-10 has been
09:50:31 17 redistricted now, right? I mean you didn't look at any maps or
09:50:35 18 any sort of mockups of what the district was going to look like.
09:50:39 19 Nobody had taken pen to paper, right?

09:50:41 20 A. No. We saw -- we saw no maps of proposals.

09:50:47 21 Q. Okay. So -- and let's see. And of course, all of
09:50:52 22 this is taking place a year and a half before the census data
09:50:57 23 was released, right?

09:50:59 24 A. More or less. Like I said, I don't recall when the
09:51:04 25 census data was released. It was February 2020.

09:51:07 1 Q. Well, assume you can tell me that you know that the
09:51:10 2 Census wasn't released until 2021, right?

09:51:14 3 A. Correct.

09:51:14 4 Q. Okay. Now I want to ask you, were you ever involved
09:51:18 5 in communication with Ms. Powell and her attorneys, during
09:51:22 6 January or anytime during the year of 2021? And that means
09:51:27 7 Mr. Hicks, Mr. Dunn, Mr. Gaber or Mr. Hiebert. Were you
09:51:33 8 involved in those conversations?

09:51:35 9 A. No.

09:51:36 10 Q. Okay. Very good. All right. One second. Let me see
09:51:41 11 if I have any more questions. I don't think I do.

09:51:46 12 Mr. Svatora, I'm going to let you get back to
09:51:48 13 rehabilitating. I hope you feel much better and we appreciate
09:51:52 14 your time today.

09:51:53 15 THE WITNESS: Thank you.

09:51:55 16 MS. DANAHY: I also don't have any further questions,
09:51:59 17 so I think we're ready to wrap up.

09:52:03 18 (Videotaped deposition stops).

09:52:03 19 MR. DUNN: That concludes the offer of the deposition
09:52:06 20 by video of Rick Svatora.

09:52:08 21 We're prepared to call our next witness. Shall we do
09:52:10 22 so?

09:52:10 23 JUDGE GUADERRAMA: Yes, sir.

09:52:12 24 MR. DUNN: Justice of the Peace, Sergio de Leon.

09:52:16 25 And he will be examined by Ms. Danahy.

09:53:16 1 (Witness sworn by Judge Guaderrama).

09:53:16 2 MS. DANAHY: Good morning, Your Honor.

09:53:16 3 JUDGE GUADERRAMA: Tell me your last name again?

09:53:16 4 MS. DANAHY: Danahy.

09:53:11 5 JUDGE GUADERRAMA: Danahy. Thank you. Yes, ma'am.

09:53:11 6 SERGIO DE LEON

09:53:12 7 DIRECT EXAMINATION BY THE PLAINTIFF

09:53:12 8 BY MS. DANAHY:

09:54:11 9 Q. Will you please state your name for the record?

09:54:13 10 A. Yes. My name is Sergio Leon de Leon.

09:54:15 11 Q. What is your race or ethnicity?

09:54:19 12 A. I am Hispanic.

09:54:21 13 Q. Are you a voter?

09:54:22 14 A. Absolutely.

09:54:23 15 Q. How often do you vote in Texas state elections?

09:54:35 16 A. Every election cycle.

09:54:38 17 Q. Do you intend to vote in the 2022 election?

09:54:41 18 A. Yes, ma'am.

09:54:41 19 Q. And do you intend to vote in subsequent elections?

09:54:44 20 A. Yes, ma'am.

09:54:45 21 Q. Where do you live, Judge de Leon?

09:54:47 22 A. I live in the Alamo Heights, Fort Worth, Texas.

09:54:51 23 Q. How long have you lived in Alamo Heights?

09:54:54 24 A. Over 25-plus-years.

09:54:56 25 Q. Now I understand that you have deep ties in the Fort

09:54:59 1 Worth area. Can you tell me about that?

09:55:01 2 A. Absolutely. I was born in Fort Worth. My mother was
09:55:04 3 born in Fort Worth, north side Fort Worth. My father emigrated
09:55:08 4 from Mexico, but settled in north side Fort Worth, and my
09:55:12 5 grandfather worked in north side Fort Worth.

09:55:15 6 Q. How are you employed?

09:55:18 7 A. With Tarrant County Justice Peace Precinct Number 5.

09:55:23 8 Q. When were you first elected?

09:55:25 9 A. Justice of the Peace, I was elected of November 2012.

09:55:30 10 Q. What did you do prior to your election as Justice of
09:55:33 11 the Piece?

09:55:33 12 A. Prior to serving in the Justice the Peace, I was the
09:55:37 13 elected constable for Precinct Number 5 elected in 2000 and
09:55:41 14 sworn in, in 2001.

09:55:43 15 Q. What areas of Tarrant County do you represent in
09:55:47 16 Precinct 5?

09:55:48 17 A. Precinct 5 before redistricting was essentially
09:55:52 18 half-pie shaped, which included the traditional Hispanic north
09:55:58 19 side areas. Basically if you are familiar with Fort Worth, 820
09:56:01 20 and 35 on the north run completely south to 20 and 35 on the
09:56:07 21 south, everything that was west of I-35, which also included the
09:56:12 22 south side Hispanic neighborhoods as well.

09:56:15 23 Q. And generally speaking, what is the demographic makeup
09:56:19 24 of your constituents?

09:56:21 25 A. Hispanic, African-American and a small portion of

09:56:26 1 Anglos.

09:56:26 2 Q. And is it predominantly Hispanic?

09:56:30 3 A. Yes.

09:56:31 4 Q. Are Hispanic voters able to elect candidates in
09:56:34 5 Precinct 5?

09:56:36 6 A. Yes, ma'am.

09:56:37 7 Q. Now you must mentioned that you went through
09:56:38 8 redistricting for your precinct, right?

09:56:38 9 A. Yes, ma'am.

09:56:38 10 Q. What changes were made to your precinct, if any during
09:56:46 11 the redistricting process?

09:56:46 12 A. My district was essentially expanded to dilate the
09:56:52 13 Hispanic voting strength, so now we go from the west side of
09:56:56 14 Bryant/Irving all the way to 820, and from the south I now go
09:57:01 15 into a -- Precinct 5 now goes into Crowley, another municipality
09:57:08 16 south of Fort Worth.

09:57:10 17 Q. Based on your experience, what impact has this impact
09:57:14 18 has this had on voter ability to elect candidates in Precinct 5?

09:57:17 19 MR. SWEETEN: Your Honor, I'm going to object. What
09:57:19 20 Mr. De Leon is talking about, as I understand it, is the
09:57:22 21 redistricting that that occurred --

09:57:22 22 (Court reporter interrupts).

09:57:22 23 MR. SWEETEN: I'm sorry.

09:57:29 24 It is the redistricting that occurred in constable
09:57:31 25 precinct in Fort Worth. It's not -- I don't think he's

09:57:34 1 addressing the redistricting issue, so I object as to relevance
09:57:38 2 of this line of questioning.

09:57:41 3 MS. DANAHY: Your Honor, we're just laying some
09:57:43 4 foundation.

09:57:43 5 JUDGE GUADERRAMA: All right. I'll allow the question
09:57:46 6 and the answer.

09:57:46 7 BY MS. DANAHY:

09:57:49 8 Q. I'm going to restate the question.

09:57:50 9 Based on your experience, what impact did the changes
09:57:53 10 made to your district have on Hispanic voter's ability to elect
09:57:58 11 candidates in Precinct 5?

09:58:01 12 A. It was diluted and now it will be almost impossible
09:58:05 13 for Hispanics to elect a Latino or Latina to the Justice of the
09:58:11 14 Peace or constable.

09:58:12 15 Q. Now prior to the current round of redistricting, was
09:58:15 16 Precinct 5 located within SD-10?

09:58:18 17 A. That's correct, about 90 percent of it.

09:58:21 18 Q. Under the newly enacted state Senate plan, is Precinct
09:58:26 19 5 still 90 percent within SD-10?

09:58:30 20 A. No, ma'am. Now my understanding is that the north
09:58:33 21 side is now in Senate District number 9, so that included the
09:58:37 22 neighborhoods of north side, the far-greater north side and
09:58:41 23 Diamond Hill area fall in District 9, and the south side
09:58:47 24 Hispanic neighborhoods now fall -- well remain in Senate
09:58:50 25 District 10, which has been expanded out to areas in Brownwood.

09:58:55 1 Q. And those north side neighborhoods you mentioned, are
09:58:57 2 those predominately Hispanic neighborhoods?

09:59:01 3 A. Yes, ma'am.

09:59:01 4 Q. What impact north side community into in SD 9 have on
09:59:07 5 those voters ability to elect a candidate of their choice?

09:59:09 6 A. Well, essentially -- whereas when north and south side
09:59:15 7 Fort Worth collectively spoke with one voice, now, they do not.
09:59:20 8 They're fractured. Their voting strength is diluted and they'll
09:59:26 9 have zero impact in that state Senate district.

09:59:32 10 Q. Now, what are the demographic of SD-9, if you know?

09:59:34 11 A. I do not fully aware of the demographics for SD 9;
09:59:42 12 however, I do know that based on areas where that's located out
09:59:46 13 by the airport, certainly different communities of interest in
09:59:50 14 north side Fort Worth and neighborhoods out by Dallas-Fort Worth
09:59:55 15 international airport.

09:59:56 16 Q. Is it a more suburban are in Tarrant country?

09:59:58 17 A. It's more of an Anglo suburban area of Tarrant County.

10:00:03 18 Q. In your experience is there any community of interest
10:00:06 19 between the historic north side Hispanic community and the Anglo
10:00:09 20 suburbs of northern Tarrant County?

10:00:11 21 A. No, ma'am.

10:00:12 22 Q. What are some of the differences between those two
10:00:14 23 communities?

10:00:15 24 A. The difference is where people worship at. I mean
10:00:20 25 people in north side; catholic church; different economic status

10:00:28 1 between people that live in the north side, as opposed to areas
10:00:31 2 out further in Senate District 9, and where the children go to
10:00:36 3 school, all of the north side, Diamond Hill area fall within
10:00:42 4 Fort Worth ISD. The further you go out in the SD-9 towards the
10:00:46 5 airport, there are multiple school districts.

10:00:49 6 Q. Were there other changes to SD-10 in the newly enacted
10:00:53 7 redistricting plan that impacts your constituents in Precinct 5?

10:00:57 8 A. Are you referring to the south side neighborhoods?

10:01:00 9 Q. I believe you said those districts remained in SD-10?

10:01:04 10 A. Correct. Those remain in SD-10 and their voices have
10:01:09 11 now been drowned out by rule voters that go further west, and so
10:01:17 12 they also have a minimal impact in the elections.

10:01:21 13 Q. And can you describe a little bit for the Court what
10:01:25 14 you me by the communities that were added further west?

10:01:28 15 A. Well, what I -- and I will refer to the testimony that
10:01:31 16 I gave at the hearing in Austin, it's just that people in south
10:01:37 17 side Fort Worth and even north side Fort Worth, they don't tend
10:01:42 18 to cattle. They don't meet up at the feed store and they don't
10:01:46 19 bale hay; two separate communities.

10:01:50 20 Q. So in your experience, would there be a community of
10:01:54 21 interest between the communities living in the south and south
10:01:55 22 side neighborhoods of Fort worth and the rural white communities
10:01:59 23 living in the new county appended to SD-10.

10:01:59 24 (Court reporter interrupts).

10:02:05 25 MS. DANAHY: In your experience, is there a community

10:02:07 1 of interest between the communities LIVING in the south and
10:02:10 2 south side neighborhoods of Fort Worth and the rural white
10:02:14 3 communities living in the new counties that were appended to
10:02:17 4 SD-10?

10:02:18 5 A. No, ma'am.

10:02:19 6 Q. Based on your experience, are Hispanic voters in
10:02:26 7 Tarrant County able to elect a candidate of their choice in the
10:02:30 8 state Senate under the newly enacted SD-10?

10:02:32 9 A. Under the new map, no.

10:02:35 10 Q. Who represents SD-10?

10:02:37 11 A. Senator Beverly Powell.

10:02:38 12 Q. Is she a Democrat?

10:02:40 13 A. Yes.

10:02:40 14 Q. Based on your experience and observations, did black
10:02:43 15 and Hispanic voters in SD-10 support Senator Powell?

10:02:48 16 MR. SWEETEN: Objection. Calls for speculation.

10:02:51 17 MS. DANAHY: I'm asking for experience.

10:02:54 18 MR. SWEETEN: And compound.

10:02:56 19 JUDGE GUADERRAMA: Well, if you an just lay a
10:02:56 20 foundation on how he might know that.

10:02:56 21 MR. DANAHY: I'm sorry?

10:03:00 22 JUDGE GUADERRAMA: How he would know that, just lay a
10:03:01 23 foundation how I can tell that he knows that and experience that
10:03:02 24 you're talking about.

10:03:02 25 BY MS. DANAHY:

10:03:04 1 Q. You mentioned that your voters in Precinct 5
10:03:07 2 predominantly Hispanic, correct?

10:03:10 3 A. That's correct.

10:03:11 4 Q. You also mentioned that you have a substantial black
10:03:13 5 voter population in your precinct; is that correct?

10:03:16 6 A. That's correct.

10:03:16 7 Q. And do you have -- based on your experience, do you
10:03:21 8 understand a little bit, generally, about the voting patterns of
10:03:23 9 black and Latino voters in your precinct?

10:03:25 10 A. With respect to Senate District 10 and looking at the
10:03:29 11 results of Senator Powell's election, I can tell you
10:03:33 12 unequivocally that Hispanic and African-Americans voted for
10:03:37 13 Senator Powell.

10:03:39 14 Q. And based on those same observations and experiences,
10:03:44 15 do black and Hispanics in SD-10 vote for the same candidate in
10:03:49 16 general elections?

10:03:50 17 A. Yes.

10:03:51 18 Q. Do you have any personal experience with coalition
10:03:56 19 support from black and Hispanic voters in Tarrant County?

10:03:59 20 A. Absolutely. I have been fortunate to have
10:04:01 21 African-American, Anglo and Hispanic support.

10:04:12 22 Q. During your time as Justice of the Peace and resident
10:04:15 23 of Tarrant County, have you had state senators who are elected
10:04:18 24 without the support of the Tarrant County minority community?

10:04:22 25 A. Yes.

10:04:22 1 Q. And have you ever experienced any differences in
10:04:25 2 therms of responsiveness when your state senator is elected by
10:04:28 3 the minority?

10:04:30 4 MR. SWEETEN: Objection, compound. Objection, calls
10:04:33 5 for speculation.

10:04:34 6 JUDGE GUADERRAMA: It might be compound. Let's break
10:04:37 7 that up.

10:04:39 8 BY MS. DANAHY:

10:04:39 9 Q. Have you experienced any differences in the
10:04:41 10 responsiveness in terms of candidates for state Senate -- state
10:04:47 11 senator rep -- between your state senator when they're elected
10:04:50 12 by the minority community?

10:04:53 13 MR. SWEETEN: Objection, Your Honor. She's
10:04:55 14 characterizing state senators broadly. Objection, compound.

10:05:04 15 JUDGE GUADERRAMA: Ms. Danahy, we're talking about
10:05:05 16 this Senate District or what are we talking about?

10:05:07 17 MS. DANAHY: In Senate District 10.

10:05:07 18 THE COURT: You can go ahead and answer.

10:05:07 19 THE WITNESS: Thank you.

10:05:12 20 A. I have seen senators through my tenure both as
10:05:20 21 constable and justice of the peace, some of which I have seen in
10:05:22 22 minority communities and others I had not.

10:05:25 23 BY MS. DANAHY:

10:05:28 24 Q. In your role as Justice of the Peace, do you attend a
10:05:33 25 lot of community events?

10:05:34 1 A. Yes, ma'am. Neighborhood associations, PTA, parades,
10:05:39 2 et cetera.

10:05:39 3 Q. And do you see Senator Powell?

10:05:46 4 A. Yes, ma'am.

10:05:46 5 Q. What's the significance of any of your state senator
10:05:50 6 attending community events?

10:05:51 7 A. It's very meaningful. It gives the community a sense
10:05:56 8 of pride to see their elected official at their community event.
10:05:59 9 It is -- it shows a degree of responsiveness and it also permits
10:06:05 10 many citizens an opportunity to visit with their state senator
10:06:13 11 about an issue they may have.

10:06:16 12 Q. Judge de Leon, were you active in speaking out about
10:06:20 13 SD-10 during the previous decade's redistricting cycle in 2011?

10:06:25 14 A. I was.

10:06:26 15 Q. Did you offer any court testimony or...

10:06:29 16 A. Yes, ma'am. I testified in the federal court in San
10:06:32 17 Antonio.

10:06:32 18 Q. And are there any similarities that you can identify
10:06:36 19 for the Court between the 2011 redistricting plan for SD-10 and
10:06:39 20 the newly enacted plan?

10:06:41 21 A. Sure. Minority communities were being sliced up and
10:06:45 22 cracked up to dilute their minority voting strength.

10:06:50 23 Q. Were you involved in speaking about proposed SD-10
10:06:54 24 during the current redistricting cycle?

10:06:57 25 A. Yes, ma'am.

10:06:57 1 Q. Did you testify at any of the legislative
10:07:00 2 redistricting hearings?

10:07:01 3 A. Yes, ma'am.

10:07:02 4 Q. Was one of those hearings in person in Austin?

10:07:04 5 A. Yes, ma'am.

10:07:05 6 MS. DANAHY: For the record, Judge de Leon's testimony
10:07:08 7 from that hearing is in the record at Plaintiff's Exhibit 52,
10:07:11 8 pages 144 to 146.

10:07:16 9 BY MS. DANAHY:

10:07:17 10 Q. What did you tell the Legislature about how they
10:07:20 11 should treat SD-10?

10:07:22 12 A. Leave it intact and make sure that minority
10:07:25 13 communities remained intact in one District to speak with one
10:07:29 14 collective vote and to make the biggest impact possible in an
10:07:33 15 election.

10:07:34 16 Q. So did you tell the Legislature some of the same
10:07:38 17 things you've told the Court today?

10:07:40 18 A. Yes, ma'am.

10:07:40 19 Q. And do you stand by your previous testimony?

10:07:42 20 A. Absolutely.

10:07:44 21 Q. Thank you, Judge de Leon.

10:07:45 22 MS. DANAHY: I have no further questions.

10:07:46 23 JUDGE GUADERRAMA: Thank you, Ms. Danahy.

10:07:48 24 Mr. Sweeten?

10:07:49 25 MR. SWEETEN: Thank you, Your Honor.

10:07:52 1

SERGIO DE LEON,

10:07:52 2

CROSS-EXAMINATION BY THE DEFENSE

10:07:52 3

BY MR. SWEETEN:

10:08:05 4

Q. I'm Patrick Sweeten and I'm here on behalf of the

10:08:07 5

State defendants. I'm just going to ask you a few questions

10:08:09 6

today and follow up to what counsel asked you just now. Okay?

10:08:13 7

A. Wonderful.:

10:08:14 8

Q. You understand, don't you, that this is a -- that the

10:08:17 9

claim here is intentional discrimination. Do you understand

10:08:21 10

that?

10:08:22 11

A. Yes, sir.

10:08:22 12

Q. I want to be clear. Ou went to Austin and you spoke

10:08:26 13

your peace along with other citizens that had a right to do that

10:08:31 14

during the legislative session?

10:08:33 15

A. I did.

10:08:34 16

Q. As part of your testimony, you indicated that you

10:08:38 17

supported Senator Powell?

10:08:41 18

A. Yes.

10:08:42 19

Q. And in fact, you have supported Senator Powell?

10:08:45 20

A. Correct.

10:08:45 21

Q. At no time did you speak with Senator Huffman other

10:08:49 22

than to address her in the citizen participation?

10:08:55 23

A. Correct --

10:08:55 24

Q. You have not spoken -- just let me finish up.

10:08:58 25

You have not spoken with Senator Huffman, correct?

10:09:01 1 A. Yes, I have not.

10:09:02 2 Q. You have not spoken with her staff, correct?

10:09:04 3 A. That's correct.

10:09:05 4 Q. You have not spoken with Ann Macken?

10:09:07 5 A. I have not.

10:09:08 6 Q. You have not spoke with Sean Oppermann?

10:09:10 7 A. I have not.

10:09:11 8 Q. Okay. With respect to how the lines were drawn in
10:09:15 9 Tarrant County, you do not have any personal knowledge about
10:09:18 10 that, do you?

10:09:19 11 A. How the lines were drawn?

10:09:20 12 Q. Correct. In other words, the method used to draw
10:09:24 13 those lines, you do not have personal knowledge of that,
10:09:27 14 correct?

10:09:27 15 A. I do not.

10:09:29 16 Q. Okay. It's the case that if I asked you what system
10:09:31 17 was even utilized, whether it was a map system, RedAppl or
10:09:36 18 something else, you would not be able to tell us that, would
10:09:38 19 you?

10:09:38 20 A. No, just the impact that it had.

10:09:40 21 Q. With respect to the functions that were utilized by
10:09:44 22 whatever that software was, you don't know what was turned on or
10:09:48 23 what wasn't, do you?

10:09:49 24 A. That's correct.

10:09:50 25 Q. Now I want to talk about your history. You are

10:09:52 1 from -- I think you lived in Arkansas for a little while?

10:09:56 2 A. I was born in Fort Worth, but raised in Arkansas.

10:09:59 3 Q. And you've lived a number of years in Fort Worth,
10:10:02 4 correct?

10:10:02 5 A. That's correct.

10:10:03 6 Q. And give us an estimate of how many. I don't know if
10:10:06 7 I got that on direct.

10:10:07 8 A. Well, on and off, you know, 30, 40 years, maybe if --

10:10:13 9 Q. And so you would say that you know the ins and out of
10:10:20 10 Fort Worth based on the living there?

10:10:21 11 A. Correct.

10:10:22 12 Q. More so than someone that doesn't live there, correct?

10:10:25 13 A. That's correct.

10:10:25 14 Q. Now, back to your history. So you are the Justice of
10:10:29 15 the Peace and before that you were a constable, correct?

10:10:31 16 A. That is correct.

10:10:32 17 Q. Have a long period of service there in Fort Worth?

10:10:36 18 A. That's correct.

10:10:36 19 Q. Now are you Democrat? Let's put that on the table.

10:10:41 20 A. Yes.

10:10:41 21 Q. You have a long history involving yourself in
10:10:44 22 democratic elections?

10:10:46 23 A. Yes.

10:10:46 24 Q. You supported Senator Powell?

10:10:48 25 A. I did.

10:10:48 1 Q. Supported Senator Davis?

10:10:49 2 A. I did.

10:10:50 3 Q. Both occupants of SD-10?

10:10:52 4 A. That is correct.

10:10:53 5 Q. And you know based on your experience in politics in
10:10:56 6 SD-10, it's a very competitive district. It has been in the
10:11:00 7 past, correct?

10:11:01 8 A. Yes.

10:11:01 9 Q. Okay. The elections have gone back and forth. If you
10:11:03 10 go back to 2002, sometimes it's a Democrat, sometimes it's a
10:11:08 11 Republican, correct?

10:11:09 12 A. Yes.

10:11:10 13 Q. Right? Okay.

10:11:13 14 Back to your campaign history. You worked on Bill
10:11:17 15 Clinton's presidential campaign?

10:11:18 16 A. I did.

10:11:19 17 Q. You worked on Hillary Clinton's 2008 campaign?

10:11:21 18 A. I did.

10:11:22 19 Q. Once he beat Hillary, you were on the Obama/Biden, he
10:11:24 20 beat -- once Obama beat Hillary, you were on the Obama/Biden?

10:11:28 21 A. Yes, I was. I didn't play an active role in that
10:11:32 22 campaign as I did with Hillary, but I was a supporter.

10:11:40 23 Q. All right. And you've worked, also -- let me check
10:11:41 24 through a few -- Chris Bell for Governor in '06?

10:11:45 25 A. I did.

10:11:45 1 Q. Rick Noriega, Senate in '08?

10:11:48 2 A. I did.

10:11:48 3 Q. Tom Shiffer in '10?

10:11:51 4 A. Correct. He wasn't there very long.

10:11:53 5 Q. Okay. And then we talked about this Wendy Davis for
10:11:57 6 governor in '14, right?

10:11:57 7 A. Yes.

10:11:58 8 Q. Those are the folks you supported, right?

10:12:02 9 A. That's correct.

10:12:03 10 Q. You haven't only been involved in the politics.
10:12:06 11 You've also been involved in litigation?

10:12:08 12 A. Correct.

10:12:08 13 Q. When did Mr. Dunn contact you about testifying in this
10:12:12 14 case?

10:12:13 15 A. I don't think I heard from Mr. Dunn, directly.

10:12:16 16 Q. Okay. You understand that Mr. Dunn is the attorney
10:12:19 17 for the Brook's plaintiffs in this matter?

10:12:21 18 A. Yes.

10:12:21 19 Q. All right. And you understand, sir, that Mr. Dunn
10:12:27 20 represented you in prior litigation, right?

10:12:29 21 A. Correct.

10:12:30 22 Q. Okay. That would be both the Section 5 attack on
10:12:34 23 voter ID that occurred in 2012, Mr. Dunn was your attorney,
10:12:39 24 wasn't he.

10:12:39 25 A. He was.

10:12:40 1 Q. Mr. Dunn was your attorney in the voter ID case in
10:12:44 2 2013, the V. C. case, correct?

10:12:47 3 A. That's correct.

10:12:48 4 Q. All right. You testified also in redistricting last
10:12:53 5 time, Perez vs. Perez. You were witness a witness and you were
10:12:58 6 deposed by my colleague, Matthew Fredrick, correct?

10:13:01 7 A. That's right.

10:13:02 8 Q. All right.

10:13:08 9 Now, Mr. De Leon, are you familiar with what the CVAP
10:13:16 10 figures the voting population age were for SD-10 as we came into
10:13:24 11 the 2021 redistricting session?

10:13:26 12 A. No.

10:13:26 13 Q. Okay.

10:13:46 14 MR. DUNN: Why don't we see if we can pull those up?
10:13:55 15 If we can blow up row SD-10, please?

10:13:55 16 BY MR. DUNN:

10:14:01 17 Q. To make this easier, because I think you have to
10:14:12 18 focus, is there a way you can do --

10:14:47 19 (Counsel speaking to counsel table).

10:14:47 20 BY MR. DUNN:

10:14:47 21 Q. Okay. You -- you -- as far as the citizen voting
10:14:48 22 population in Senate District 10, you're not here to testify
10:14:52 23 about that?

10:14:53 24 A. No.

10:14:53 25 Q. All right. Very good.

10:15:08 1 All right. Now let me also ask you, you were part of
10:15:13 2 the D. N. C.'s Texas Victory Leaders Counsel, correct? You were
10:15:17 3 named that sometime over the last decade; is that right?

10:15:22 4 A. That, I'm not familiar with. The DNC what?

10:15:27 5 Q. The Democratic National Committee's Texas Victory
10:15:35 6 Leadership Council. Are you aware of that?

10:15:36 7 A. That doesn't ring a bell.

10:15:38 8 Q. I want to ask you, in Fort Worth, you would agree that
10:15:42 9 you and Mr. Brooks had worked to support Wendy Davis in her
10:15:47 10 prior campaigns, right?

10:15:50 11 A. That's correct.

10:15:51 12 Q. All right. Now it's also the case that -- have you
10:15:57 13 worked with matt Angle in the past in Fort Worth politics?

10:16:01 14 A. Yes.

10:16:01 15 Q. And what group is Mr. Angle with?

10:16:06 16 A. He's with the Loan Star group.

10:16:08 17 Q. Loan Star Democrats, is that the name of the
10:16:12 18 organization?

10:16:12 19 A. I've always referred to Loan Star. I don't know the
10:16:17 20 full name.

10:16:17 21 Q. Let me ask you about representation of you. You have
10:16:21 22 had representing from either -- outside of Mr. Dunn, with
10:16:27 23 Mr. Jerry Hiebert in the past? Has he represented you?

10:16:29 24 A. In the past I worked with Jerry. He prepped me for
10:16:33 25 the redistricting for Wendy Davis.

10:16:43 1 MS. DANAHY: I want to object. Attorney/client
10:16:46 2 privilege. You don't -- I'm going to instruct you not to
10:16:48 3 discuss your conversations with Mr. Hiebert.

10:16:48 4 BY MR. SWEETEN:

10:16:51 5 Q. I do not want to know any of your conversations. I
10:16:54 6 want to ask you, have you worked with Mr. Hiebert in the past?

10:16:57 7 A. I had one conversation with him back whenever Wendy
10:17:02 8 Davis was having her child.

10:17:04 9 Q. How about attorney Rene Hicks? Have you work with him
10:17:08 10 in the past?

10:17:08 11 A. That does not ring a bell.

10:17:11 12 Q. How about Mr. Gaber here?

10:17:14 13 A. Other than the appearance here today and yesterday.

10:17:17 14 Q. Do you if know any of those four attorneys represented
10:17:20 15 Ms. Powell during the year proceeding redistricting in the year
10:17:25 16 2011?

10:17:25 17 A. I mean, I don't know the extent of that relationship.

10:17:37 18 Q. Thank you.

10:17:40 19 SERGIO DE LEON,

10:17:40 20 REDIRECT EXAMINATION BY THE PLAINTIFF

10:17:42 21 BY MS. DANAHY:

10:17:42 22 Q. I just have a couple of short questions for you.

10:17:48 23 A. Uh-huh.

10:17:49 24 Q. Mr. Sweeten had asked you if you had spoken to Senator
10:17:54 25 Huffman at all about redistricting SD-10; is that right?

10:17:55 1 A. Yes.

10:17:55 2 Q. And you testified that you had not?

10:17:57 3 A. That's correct.

10:17:58 4 Q. Did Senator Huffman provide any public opportunity to
10:18:03 5 meet with her personally about redistricting, that you were
10:18:06 6 aware of?

10:18:06 7 A. No.

10:18:06 8 Q. What about Anna Macken?

10:18:08 9 A. No.

10:18:09 10 Q. And Sean Oppermann?

10:18:10 11 A. No.

10:18:11 12 Q. To your knowledge, was the public testimony sessions
10:18:13 13 the only ability that you had to speak in front of Senator
10:18:18 14 Huffman as member of the public on redistricting?

10:18:19 15 MR. SWEETEN: Objection, leading.

10:18:21 16 THE WITNESS: I'll just say --

10:18:23 17 JUDGE GUADERRAMA: Hold on a second.

10:18:25 18 Yeah, I'll sustain that objection.

10:18:29 19 BY MS. DANAHY:

10:18:29 20 Q. What opportunity did you have to speak in front of
10:18:32 21 Senator Huffman as a member of the public on redistricting?

10:18:35 22 A. The only time I saw the Senator is when I was speaking
10:18:41 23 on the Senate floor in the most recent testimony that I gave on
10:18:46 24 redistricting.

10:18:46 25 Q. Are you aware of any other opportunity you had to

10:18:49 1 speak with Senator Huffman with redistricting?

10:18:53 2 A. No, ma'am.

10:18:53 3 Q. Thank you.

10:18:54 4 MS. DANAHY: Thank you. That's all.

10:18:54 5 JUDGE GUADERRAMA: Mr. Sweeten:

10:18:55 6 MR. SWEETEN: Just a couple of questions, Your Honor.

10:18:55 7 JUDGE GUADERRAMA: Yes, sir.

10:18:58 8 SERGIO DE LEON,

10:18:58 9 RE CROSS-EXAMINATION BY THE PLAINTIFF

10:19:00 10 BY MR. SWEETEN:

10:19:00 11 Q. You have, in the past, when visiting the Capitol, gone
10:19:04 12 to talk to other members, senators or legislators; is that
10:19:08 13 correct?

10:19:08 14 A. Lobbying on a lot of JP consul issues, yes.

10:19:13 15 Q. Got it. So you're active in that area.

10:19:16 16 You've been in their offices to talk -- you've sign
10:19:18 17 in, tried to talk with them, correct?

10:19:20 18 A. Correct.

10:19:21 19 Q. Okay. During September or October of 2021, did you go
10:19:25 20 to Senator Huffman's office?

10:19:28 21 A. I did not.

10:19:30 22 MR. SWEETEN: No further questions. Thank you.

10:19:32 23 MS. DANAHY: Nothing further, Your Honor.

10:19:33 24 JUDGE GUADERRAMA: All right.

10:19:35 25 May the Judge be permanently excused?

10:19:37 1 MS. DUNN: Yes, Your Honor.

10:19:52 2 JUDGE GUADERRAMA: Mr. Sweeten, may the Judge be
10:19:52 3 permanently excused?

10:19:52 4 MR. SWEETEN: Yes, sir.

10:19:52 5 THE COURT: This is a good time to take our break for
10:19:55 6 10:30, so let's go ahead and recess for 15. If you'd you all be
10:19:59 7 pack at 10:35, we'll resume our proceedings then.

10:20:11 8 (Break at 10:20 a.m. to 10:35 a.m.).

10:35:36 9 JUDGE GUADERRAMA: Mr. Dunn, what exhibits did you
10:35:36 10 identify earlier that you were offering?

10:35:41 11 MR. DUNN: Brooks Exhibits 1 through 105.

10:35:46 12 JUDGE GUADERRAMA: So do you have an additional
10:35:49 13 exhibit list? I have your first amended, it goes through 104.

10:36:05 14 MR. DUNN: Oh, I beg your pardon. Then 1 through 104.

10:36:05 15 JUDGE GUADERRAMA: So we're going to -- subject to
10:36:08 16 objections, Plaintiff's Exhibit 1 through 104.

10:37:13 17 Mr. Gaines, you may begin, sir.

10:37:19 18 MR. GAINES: Thank you.

10:37:19 19 ROY BROOKS

10:37:20 20 DIRECT EXAMINATION BY THE PLAINTIFF

10:37:21 21 BY MR. GAINES:

10:37:21 22 Q. Good morning, Commissioner Brooks?

10:37:24 23 A. Good morning, Mr. Gaines.

10:37:25 24 Q. Would you please state your name for the record?

10:37:27 25 A. My name is Roy Charles Brooks.

10:37:31 1 Q. And what is your race?

10:37:34 2 A. African-American.

10:37:37 3 Q. And are you a voter?

10:37:38 4 A. Yes, sir.

10:37:40 5 Q. And how often do you vote in Texas state elections?

10:37:44 6 A. Every time they have one.

10:37:46 7 Q. And do you intend to vote in the 2022 election?

10:37:52 8 A. Yes, sir.

10:37:53 9 Q. And do you intend to vote in all future elections?

10:37:56 10 A. That would be my intention, yes.

10:37:58 11 Q. And could you tell us, where do you live in Fort

10:38:05 12 Worth, Commissioner?

10:38:07 13 A. Southwest Fort Worth in the Meadows West neighborhood.

10:38:13 14 Q. And how long have you lived in Fort Worth?

10:38:17 15 A. Oh, I've lived in Fort Worth most of my life, which is

10:38:29 16 72 years long.

10:38:32 17 Q. Thank you.

10:38:32 18 How are you employed?

10:38:36 19 A. I am employed by Tarrant County as the elected County

10:38:47 20 Commissioner Tarrant County Precinct 1.

10:38:50 21 Q. And could you tell us when you were first elected?

10:38:56 22 A. I was elected in 2004 and took office January 1, 2005.

10:39:07 23 Q. Have you been elected to any other positions in the
10:39:10 24 past?

10:39:11 25 A. I was elected as city council person in the city of

10:39:18 1 Forest Hills, which is a suburb of Fort Worth. I was elected
10:39:25 2 three times.

10:39:26 3 Q. Are you a member of any state or county commissioners
10:39:33 4 organizations?

10:39:33 5 A. Yes, sir. I'm a member of the National Association of
10:39:40 6 Counties, which is that body which represents all 3,069 counties
10:39:52 7 in America. I'm a former president of that organization. And I
10:39:57 8 am the current chairman of the Board of the National
10:40:04 9 Organization of Black County officials, which is an affiliate of
10:40:10 10 the National Association of Counties.

10:40:16 11 Q. Is this organization -- what kind of organization is
10:40:19 12 this?

10:40:19 13 A. Which one.

10:40:21 14 Q. The National Association of Counties?

10:40:29 15 A. The National Association of Counties is a
10:40:37 16 non-partisan, but very political body, which represents local
10:40:46 17 counties in their dealings with the federal government, whatever
10:40:56 18 administration happens to be in power and both houses of
10:41:01 19 Congress and the executive agencies to craft policies that are
10:41:10 20 to the benefit of people who live in counties in America.

10:41:16 21 Q. And what is a role of a county commissioner in Tarrant
10:41:24 22 County?

10:41:24 23 A. The role of a Tarrant County commissioner is to make
10:41:33 24 policies regarding the implementation of laws passed by the
10:41:44 25 state Legislature from time to time and to implement the

10:41:55 1 statutory responsibilities of a county commissioner under the
10:42:01 2 state Constitution.

10:42:03 3 Q. What policies do you focus on in your role as county
10:42:09 4 commissioner?

10:42:11 5 A. Personally?

10:42:12 6 Q. Yes.

10:42:13 7 A. My personal focus is primarily on issues of health
10:42:22 8 care, but I focus on the entire social safety net, which
10:42:30 9 includes criminal justice issues, child protection, mental
10:42:38 10 health and emergency assistance.

10:42:43 11 Q. And do you, sir, as a liaison from the commissioners
10:42:49 12 court to any health organizations?

10:42:51 13 A. Yes, I do. I am liaison to the John Pier Smith Health
10:42:58 14 Network, which is our county hospital, and it's 40 or so
10:43:05 15 community based clinics. I'm liaison to the mental health
10:43:11 16 retardation agency and also to Tarrant County public health
10:43:17 17 department.

10:43:18 18 Q. What percentage of time is spent on constituent
10:43:27 19 services?

10:43:27 20 A. At least 50 percent.

10:43:29 21 Q. Now, I had already asked you how long you lived in
10:43:35 22 Tarrant County and are you familiar with the neighborhoods and
10:43:38 23 in communities of Tarrant County?

10:43:39 24 A. Yes, sir.

10:43:40 25 Q. And what areas of the counties do you represent in the

10:43:46 1 commissioner's court?

10:43:48 2 A. I represent at least 50 percent of the city of Fort
10:43:57 3 Worth. In addition I represent the cities of Benbrook, Crowley,
10:44:04 4 the town of Edge Cliff Village, the city of Forest Hills, the
10:44:13 5 city of Everman and a portion of the City of Arlington. Also a
10:44:19 6 portion of the city of Burleson.

10:44:22 7 Q. What is a demographic make-up of your precinct?

10:44:31 8 A. It's approximately 50 percent Anglo, perhaps
10:44:40 9 35 percent Hispanic and 25 percent African-American.

10:44:45 10 Q. Now Commissioner, in your role as commissioner, do you
10:44:49 11 have occasion to work with the state Legislature who represent
10:44:55 12 Tarrant County?

10:44:55 13 A. Yes, sir.

10:44:55 14 Q. And what state Senate District overlaps with your
10:45:01 15 commissioner's court precinct?

10:45:04 16 A. Senate District 10 primarily.

10:45:07 17 Q. And is it important to your role as commissioner to
10:45:11 18 have a working relationship with state legislature?

10:45:16 19 A. Yes, sir, it is.

10:45:17 20 Q. And why is that, commissioner?

10:45:23 21 A. Because the government, when it works best is a
10:45:31 22 partnership between all levels of the government. We must work
10:45:36 23 collaboratively to get positive results for the people that we
10:45:41 24 refer. And although the taxpayer may write checks to different
10:45:54 25 governmental institutions, essentially there's only one taxpayer

10:46:00 1 and their interests have to be represented everywhere.

10:46:06 2 Q. And could you just give us a couple of examples of
10:46:10 3 matters decided by the state Legislature that affect your
10:46:16 4 constituents?

10:46:18 5 A. Issues of health care, the funding of Medicaid and the
10:46:27 6 various indigent health care programs. The county's response to
10:46:43 7 the COVID pandemic is pretty well controlled by policies that
10:46:53 8 the Governor has established. There are issues of public safety
10:47:00 9 and criminal justice, mental health, all of these are areas of
10:47:08 10 concern to me.

10:47:09 11 Q. And in your experience, are these issues important to
10:47:15 12 your black and Latino constituents?

10:47:19 13 A. Absolutely.

10:47:20 14 Q. Could you tell us why?

10:47:23 15 A. Because when we get those issues correct, when we do
10:47:41 16 the right things regarding those issues, it adds to the quality
10:47:45 17 of life of the residence of Tarrant County when we get them
10:47:51 18 wrong it often causes pain.

10:47:56 19 Q. And have you been able to convince members of the
10:48:02 20 state Senate from your commissioner precinct to support these
10:48:07 21 measures?

10:48:07 22 A. Some more than others, yes.

10:48:13 23 Q. And could you tell us who you've been able to issues
10:48:20 24 you dress?

10:48:20 25 A. Well Senator Beverly Powell who represents state

10:48:25 1 Senate District 10 is always a reliable partner.

10:48:30 2 Q. And the other members, what's your relationship with
10:48:36 3 the other members?

10:48:37 4 A. I try to work with all members of the House and
10:48:46 5 Senate. I find that some are easier to work with than others.

10:48:54 6 Q. Now, Commissioner Brooks, I want to ask you a question
10:49:00 7 about the state Senate maps.

10:49:02 8 Are you familiar with the map for SD-10 that was in
10:49:08 9 effect at the 2018 election for SD-10?

10:49:13 10 A. Yes.

10:49:13 11 Q. And can you tell us when that map was enacted?

10:49:19 12 A. In 2011, I believe.

10:49:27 13 Q. The 2011 redistricting plan?

10:49:33 14 A. Yes.

10:49:34 15 Q. Were you involved at all during the 2011 redistricting
10:49:39 16 cycle?

10:49:39 17 A. I was.

10:49:40 18 Q. And how were you involved?

10:49:44 19 A. I am always involved in trying to make sure that
10:49:55 20 African-American and Hispanic voters are able to maximize their
10:50:04 21 participation in the electoral process.

10:50:07 22 Q. Did you did you submit a written test to the
10:50:12 23 department of Justice during that preclearance process?

10:50:15 24 A. Yes, I did.

10:50:16 25 Q. Have you read the opinion from that court case?

10:50:19 1 A. Yes I have.

10:50:20 2 Q. And did that court credit your testimony in that
10:50:25 3 opinion?

10:50:25 4 A. Yes it did.

10:50:27 5 Q. How what is your non-lawyer understanding of decision
10:50:30 6 with respect to SD-10?

10:50:34 7 A. My non-lawyer understanding of the court's decision
10:50:42 8 was that the Legislature's efforts to dismantle Senate District
10:51:04 9 10 were intentionally discriminatory.

10:51:11 10 Q. After the district was put back together in 2012, were
10:51:20 11 you relieved when that happened?

10:51:22 12 A. Absolutely.

10:51:25 13 Q. Now, let's talk about the recent round of
10:51:30 14 redistricting. Was the 2012 court decision honored in your
10:51:36 15 opinion?

10:51:36 16 A. It was honored until the 2021 redistricting cycle.

10:51:48 17 Q. So what happened during this cycle?

10:51:54 18 A. Once again, there wasn't --

10:51:54 19 MS. CORBELLO: Objection. Lacks foundation.

10:52:06 20 THE COURT: I'm sorry. What was your objection?

10:52:06 21 MS. CORBELLO: Lacks foundation, Your Honor.

10:52:06 22 THE COURT: Lacks foundation?

10:52:09 23 MS. CORBELLO: Yes, Your Honor. The witness has not
10:52:10 24 testified to any knowledge of what went on during the 87th
10:52:12 25 Legislative Session.

10:52:13 1 JUDGE GUADERRAMA: I thought he touched on this.

10:52:16 2 Mr. Gaines, if you would lay that foundation and ask
10:52:20 3 your question again, please.

10:52:23 4 BY MR. GAINES:

10:52:23 5 Q. Did you have an opportunity to testify as you said
10:52:28 6 during the 2021 redistricting cycle; is that correct?

10:52:32 7 A. Yes, I did.

10:52:33 8 Q. And you know from your testimony that and you know
10:52:37 9 from your final result that the plan that was came up with took
10:52:46 10 Tarrant County African-American and Hispanic neighborhoods out
10:52:50 11 of senatorial 10 and merged white rural voters in six rural
10:52:58 12 counties; is that correct?

10:52:59 13 A. That is correct.

10:52:59 14 Q. Tell us what communities were taken out of SD-10?

10:53:04 15 A. The Hispanic community on the north side of the city
10:53:10 16 of Fort Worth and the African-American and Hispanic communities
10:53:18 17 in Mansfield and Kendall and south of Harlan.

10:53:27 18 Q. And just again so we're clear, what counties were
10:53:32 19 moved into SD-10 during the last redistricting cycle? Just
10:53:39 20 describe the counties for us.

10:53:42 21 A. The portion of Tarrant County that was left in Senate
10:54:01 22 District 10 was appended to six or seven rural Anglo counties to
10:54:17 23 the south and west of Tarrant County.

10:54:22 24 Q. And would you say that the white rural Texans in these
10:54:29 25 seven counties share the same needs and concerns of your

10:54:35 1 constituents?

10:54:42 2 MS. CORBELLO: Objection, lacks foundation.

10:54:46 3 JUDGE GUADERRAMA: Mr. Gaines, if you can show a
10:54:50 4 foundation for how he would know about those other counties.

10:54:54 5 BY MR. GAINES:

10:54:55 6 Q. Have you had a chance to look at the map passed by the
10:54:59 7 Legislature and signed by the Governor have you had a chance to
10:55:04 8 look at that map?

10:55:08 9 A. The new map for Senate District 10?

10:55:10 10 Q. Yes.

10:55:11 11 A. Yes, I have.

10:55:11 12 Q. And you also had an opportunity to look at the present
10:55:16 13 counties that were placed into the new SD-10; is that correct?

10:55:21 14 A. That's correct.

10:55:21 15 Q. And you know that you have also had an opportunity to
10:55:25 16 know that these counties are rural?

10:55:28 17 A. Yes.

10:55:29 18 Q. And you also know that these counties are white?

10:55:36 19 MS. CORBELLO: Objection, leading.

10:55:37 20 JUDGE GUADERRAMA: Sustained.

10:55:43 21 BY MR. GAINES:

10:55:44 22 Q. Who lives in these counties?

10:55:46 23 A. They are primarily Anglo, rural people.

10:55:51 24 Q. Thank you. Do these, based on your knowledge, do they
10:55:57 25 share the same needs and concerns of your constituents?

10:56:03 1 MS. CORBELLO: Objection, lacks foundation.

10:56:07 2 JUDGE GUADERRAMA: Sustained. If we could just show
10:56:09 3 his knowledge.

10:56:16 4 BY MR. GAINES:

10:56:17 5 Q. Who represents SD-10?

10:56:20 6 A. Senator Beverly Powell.

10:56:23 7 Q. Is she Republican or Democrat?

10:56:27 8 A. She's a Democrat.

10:56:30 9 Q. And did you recruit Senator Powell to run in SD-10?

10:56:36 10 A. Yes, I did.

10:56:37 11 Q. Why? Can you tell us why?

10:56:40 12 A. Because I have known Senator Beverly Powell for many
10:56:51 13 many years and know her to share the values of African-Americans
10:57:01 14 and Hispanics in Senate District 10.

10:57:07 15 Q. And in your experience, do black and Latino voters in
10:57:15 16 Tarrant County vote same county date in generally elections?

10:57:19 17 A. Yes I have enjoyed the support of the black and
10:57:25 18 Hispanic community in my five elections to the commissions Court
10:57:36 19 to Tarrant County.

10:57:37 20 Q. And based on your knowledge of voters in Tarrant
10:57:40 21 County, would you say Senator Powell is elected of choice in?

10:57:48 22 A. Yes.

10:57:49 23 Q. And based on Tarrant County politics, do you believe
10:57:53 24 that Senator Powell can win re-election in the newly drawn
10:57:59 25 Senate District 10?

10:58:03 1 A. Probably not.

10:58:08 2 Q. And based on your experience with knowledge in Tarrant
10:58:13 3 County politics, do you believe Black and Latino voters can
10:58:17 4 elect any candidate of choice in SD-10 as it is currently drawn?

10:58:22 5 A. No.

10:58:23 6 Q. Commissioner Brooks, are you familiar with the 2021
10:58:28 7 Congressional District Plan adopted by the State Legislature?

10:58:31 8 A. Yes.

10:58:32 9 Q. And how did that plan treat the Fort Worth minority
10:58:36 10 community?

10:58:37 11 A. It kept the community intact in both congressional
10:58:53 12 Districts 33, and 30.

10:58:59 13 Q. And are you familiar with the 2021 State Board of
10:59:04 14 Education Redistricting Plan adopted by the State Legislature?

10:59:08 15 A. Yes.

10:59:08 16 Q. And how did that plan treat the Fort Worth minority
10:59:12 17 community?

10:59:12 18 A. It kept those communities of interest intact.

10:59:17 19 Q. And Commissioner Brooks, were you active speaking out
10:59:22 20 in the 2021 redistricting process?

10:59:25 21 A. Yes.

10:59:25 22 Q. And did you attend any of the redistricting committee
10:59:30 23 hearings?

10:59:30 24 A. Yes.

10:59:31 25 Q. And did you express disapproval of the plan that was

10:59:37 1 passed to members of the committee before it was passed?

10:59:42 2 A. Yes, I did.

10:59:43 3 Q. And what was your testimony during that 2021 hearing?

10:59:50 4 Can you tell us a little about that?

10:59:53 5 A. My testimony was that the plan that was proposed to be

11:00:06 6 adopted would keep African-American and Hispanic voters from

11:00:27 7 ever being able to elect a candidate of their choice.

11:00:35 8 Q. Were there other people that also testified against

11:00:39 9 this plan in regard to SD-10?

11:00:41 10 A. Yes.

11:00:41 11 Q. I believe you testified on September 11, 2021; is that

11:00:50 12 correct?

11:00:50 13 A. I did.

11:00:50 14 Q. And what was your testimony during that hearing?

11:00:53 15 A. I recognize the irony and importance of the fact that

11:01:06 16 that hearing was being held on September 11th, and the

11:01:12 17 significance of that date and the history of America, that

11:01:21 18 because of attacks outside parties against the United States it

11:01:30 19 brought people together, brought us together as a nation, and

11:01:38 20 that the actions that were being contemplated by the state

11:01:46 21 Legislature would have just the opposite effect. It would

11:01:52 22 divide us rather than unite us.

11:01:55 23 Q. And did you submit written testimony during that

11:01:59 24 hearing?

11:01:59 25 A. I did.

11:02:00 1 Q. What are some of the things you told the committee in
11:02:08 2 your written testimony?

11:02:10 3 A. Essentially that they should leave Senate District 10
11:02:19 4 intact and should try to learn the lessons of history and not
11:02:28 5 repeat a mistakes of the past.

11:02:32 6 Q. And Commissioner Brooks, what path forward for your
11:02:46 7 citizens, the persons that you represent, do you have any
11:02:50 8 opinion as to whether that your black and brown constituents to
11:02:58 9 be silenced in Senate District 10 elections if this plan remains
11:03:03 10 in effect?

11:03:04 11 A. Their voices will be greatly diminished to the point
11:03:10 12 of not being heard and not being effective in their attempts to
11:03:28 13 get their points of view across.

11:03:32 14 Q. Commissioner Brooks, do you standby your testimony at
11:03:39 15 the legislative process?

11:03:41 16 A. I do.

11:03:46 17 MR. GAINES: I pass the witness.

11:03:49 18 JUDGE GUADERRAMA: Thank you, Mr. Gaines.

11:03:56 19 ROY BROOKS,

11:03:56 20 CROSS-EXAMINATION BY THE DEFENSE

11:03:56 21 BY MS. CORBELLO:

11:04:28 22 Q. It is safe to say from your testimony this morning you
11:04:31 23 know Tarrant County very well, right?

11:04:32 24 A. Yes.

11:04:33 25 Q. You've lived there you said most of your life?

11:04:37 1

A. Yes.

11:04:37 2

Q. You've served as county commissioner for about

11:04:43 3

17 years; is that right?

11:04:43 4

A. That's correct.

11:04:44 5

Q. So you have had a lot of time and a lot of job

11:04:47 6

experience to familiarize yourself with the demographics and

11:04:52 7

voter population of Tarrant County; is that right?

11:04:54 8

A. That's correct.

11:04:55 9

Q. Would you expect someone who's never lived in Tarrant

11:04:58 10

County to have the same level of knowledge that you do about

11:05:04 11

Tarrant County voters, Mr. Brooks?

11:05:06 12

A. No.

11:05:06 13

Q. Did you know where Senator Huffman is from?

11:05:09 14

A. No, I did not.

11:05:11 15

Q. Are you aware that she's never lived in Tarrant

11:05:15 16

County?

11:05:15 17

A. No.

11:05:15 18

Q. So based on your testimony, you would not expect

11:05:19 19

Senator Huffman to be aware of the racial demographics of voter

11:05:22 20

population within Tarrant County the same way that you've

11:05:24 21

testified to today; is that fair?

11:05:26 22

A. That's fair.

11:05:28 23

Q. You said you're currently the County Commissioner for

11:05:35 24

Tarrant County, Precinct 1, correct?

11:05:36 25

A. Correct.

11:05:37 1 Q. Precinct 1, what's the population of Democrats to
11:05:41 2 Republican within Precinct 1?

11:05:43 3 A. Approaching 60 percent Democrat, 40 percent more or
11:05:56 4 less, Republican.

11:05:57 5 Q. And you are a Democrat, right?

11:06:00 6 A. I am.

11:06:00 7 Q. And that 60/40 number, that's remained the same
11:06:05 8 throughout your tenure as Commissioner of Precinct 1, right?

11:06:10 9 A. Yes.

11:06:11 10 Q. One of your job duties, you said, was to participate
11:06:15 11 in reviewing precinct maps and helping to decide whether they
11:06:19 12 need to be withdrawn; is that right?

11:06:21 13 A. Say that again, please?

11:06:23 14 Q. Sure. I'll break it down.

11:06:25 15 As Precinct 1 Commissioner, one of your job duties is
11:06:29 16 to review precinct maps from time to time, right?

11:06:35 17 A. Yes --

11:06:35 18 Q. And you --

11:06:36 19 A. -- one of our responsibilities is redistricting
11:06:42 20 Tarrant County every 10 years.

11:06:43 21 Q. So you are part of the decision-making process about
11:06:48 22 whether or not Precinct 1 needs to be withdrawn [sic]; is that
11:06:54 23 right?

11:06:54 24 A. Yes.

11:06:54 25 Q. You, along with the rest of the commissioner's court,

11:06:58 1 looked into redrawing precinct one back in 2021, right?

11:07:05 2 A. Yes.

11:07:05 3 Q. And you were against Precinct 1 being withdrawn [sic]
11:07:10 4 at that time, weren't you?

11:07:11 5 A. Yes.

11:07:11 6 Q. Tarrant County is predominantly a Republican county,
11:07:17 7 isn't it?

11:07:17 8 A. Yes. Tending toward purple.

11:07:25 9 Q. But currently it predominantly Republican county?

11:07:30 10 A. Probably.

11:07:31 11 Q. Well do you remember giving a deposition with me
11:07:35 12 Mr. Brooks, just a few days ago?

11:07:35 13 A. I do.

11:07:36 14 Q. Do you remember answering any differently to that
11:07:44 15 question?

11:07:45 16 A. I don't specifically remember what my answer was at
11:07:49 17 the time, but I will concede to you that it is a Republican
11:08:01 18 county.

11:08:03 19 Q. Other than one run virtual attendance, each to the
11:08:09 20 Senate and to the House, you didn't attend any other Legislature
11:08:13 21 redistricting this last redistricting, did you?

11:08:17 22 A. No, I did not.

11:08:18 23 Q. You didn't watch any of the sessions over video other
11:08:23 24 than the two that you attended virtually?

11:08:26 25 A. No, I did not.

11:08:27 1 Q. You didn't get any live updates as the sessions were
11:08:31 2 going forward, did you?

11:08:32 3 A. Define for me live updates.

11:08:41 4 Q. Well, you didn't get any text messages from Senator
11:08:45 5 Powell as the redistricting sessions were going forward, did
11:08:48 6 you?

11:08:48 7 A. No, I did not.

11:08:48 8 Q. You didn't look up anyone's account on Twitter to see
11:08:53 9 how they were doing, did you?

11:08:54 10 A. No, I did not.

11:08:55 11 Q. Any live updates like the ones you -- I just gave you
11:08:59 12 that you were following at the time?

11:09:00 13 A. No.

11:09:01 14 Q. And you didn't watch any sessions after-the-fact, did
11:09:04 15 you?

11:09:04 16 A. No.

11:09:05 17 Q. You don't have any personal knowledge of what was said
11:09:10 18 by any of the legislators during the 87th session regarding
11:09:15 19 redistricting other than the two brief periods you made an
11:09:17 20 appearance over virtual; is that right?

11:09:19 21 A. No, I did not.

11:09:21 22 Q. And you're not testifying to this Court about any
11:09:26 23 personal knowledge of motivations behind any of the senators
11:09:30 24 that provided maps that would've impacted SD-10 during the
11:09:34 25 legislative session, right?

11:09:36 1 A. Right.

11:09:36 2 Q. And you are not here today speaking about -- you
11:09:39 3 didn't speak to any legislator who supported a map to have the
11:09:45 4 Senate maps, right?

11:09:46 5 A. Right.

11:09:47 6 Q. You've never spoken to Senator Huffman --

11:09:53 7 A. No.

11:09:54 8 Q. -- correct? You've never spoken to her in person?

11:09:57 9 A. No, I have not.

11:09:58 10 Q. Never spoken to her in any other way; e-mail?

11:10:01 11 A. I do not know her.

11:10:04 12 Q. You don't know anyone who works for Senator Huffman,
11:10:09 13 do you?

11:10:09 14 A. No, I do not.

11:10:10 15 Q. You don't know who Anna Macken is?

11:10:12 16 A. No.

11:10:12 17 Q. So it's safe to say you haven't spoken to Anna Macken?

11:10:16 18 A. That's correct.

11:10:16 19 Q. And you don't know who Sean Oppermann is?

11:10:19 20 A. No, I don't.

11:10:20 21 Q. Safe to say you haven't spoken to Sean Oppermann?

11:10:23 22 A. Safe to say.

11:10:27 23 Q. You know what the proposed map of SD-10 looks like
11:10:30 24 that you are hear challenging today?

11:10:33 25 A. Yes.

11:10:34 1 Q. You talked about what it looks like with your counsel
11:10:37 2 a little bit?

11:10:38 3 A. Yes.

11:10:38 4 Q. You know Senator Huffman authored that map, right?

11:10:48 5 A. I have no specific knowledge who authored that map.

11:10:54 6 Q. You actually don't have any personal knowledge about
11:10:58 7 the author of the map that you are challenging here today,
11:11:00 8 right?

11:11:00 9 A. I do not.

11:11:01 10 Q. So in that case, you weren't involved in any kind of
11:11:04 11 creation of the map that you are challenging today?

11:11:07 12 A. I was not.

11:11:11 13 Q. You didn't provide any input at any time during the
11:11:17 14 legislative session that ultimately went into -- was voted
11:11:20 15 through the Senate, right?

11:11:21 16 A. Other than the hearings at which I testified, no.

11:11:28 17 Q. Other than the testimony you provided, which we'll get
11:11:32 18 to in a second, were you asked to provide any input on any map
11:11:37 19 proposed by any senator that involved SD-10?

11:11:40 20 A. No.

11:11:41 21 Q. Senator Huffman has never told you why she drew the
11:11:47 22 map the way she did?

11:11:48 23 A. Correct.

11:11:48 24 Q. You don't know what software was used in drawing the
11:11:53 25 map, do you?

11:11:53 1

A. No.

11:11:54 2

Q. Have you ever used RedAppl software?

11:11:57 3

A. No.

11:11:57 4

Q. You don't know what functionalities are capable on

11:12:01 5

RedAppl when a Senator is creating a map?

11:12:05 6

A. No.

11:12:06 7

Q. Let's talk about your testimony a little bit that you

11:12:09 8

gave you gave essentially the same testimony for the Senate and

11:12:12 9

House back in the 87th legislative session, right?

11:12:16 10

A. I believe so.

11:12:18 11

Q. It was written testimony, right?

11:12:19 12

A. Right.

11:12:20 13

Q. That you read to both the Senate and the House?

11:12:23 14

A. That's correct.

11:12:24 15

Q. And in that testimony you advocated for separate

11:12:27 16

congressional districts for Hispanics, right?

11:12:33 17

A. A separate congressional district for the Senate?

11:12:41 18

Q. For Hispanics.

11:12:43 19

A. Yes, I did.

11:12:44 20

Q. And you advocated separate congressional district for

11:12:50 21

African African-Americans?

11:12:56 22

A. I did.

11:12:57 23

Q. And your reason for advocating for that is time

11:12:58 24

because the best configuration to make sure that both of those

11:13:01 25

groups could elect the candidate of their choice; is that right?

11:13:06 1 A. That's correct.

11:13:07 2 Q. You told the Senate that Congressional District 33 was
11:13:09 3 an African-American district, right?

11:13:17 4 A. I told the Senate that it performs as an
11:13:19 5 African-American district, yes.

11:13:22 6 Q. Do you recall telling them that reconfiguring
11:13:24 7 Congressional District 33 into a Hispanic District would be an
11:13:29 8 assault on African-American votes?

11:13:36 9 A. Yes.

11:13:36 10 Q. Did yo also tell them that redistricting Congressional
11:13:38 11 District 33 into a Hispanic district would constitute actual
11:13:41 12 intentional discrimination against minority voters including
11:13:45 13 African-American voters?

11:13:55 14 A. I advised them that it would be discrimination. I
11:14:03 15 don't know that I used the word intentional discrimination.

11:14:07 16 Q. Do you remember talking about this testimony with me
11:14:09 17 at your deposition, Mr. Brooks?

11:14:12 18 A. I do.

11:14:13 19 Q. Do you recall me asking whether you had told the
11:14:20 20 Senate that reconfiguring congressional 33 into a Hispanic
11:14:26 21 district would constitute intentional discrimination against
11:14:30 22 African-American voters?

11:14:33 23 A. I don't recall specifically whether you asked me about
11:14:55 24 intentional discrimination.

11:14:59 25 Q. Well, let me ask it this way. Is it your testimony to

11:15:01 1 this Court today that reconfiguring Congressional District 33
11:15:07 2 into a Hispanic district would not constitute intentional
11:15:12 3 discrimination against African-American voters? Is it your
11:15:16 4 testimony that you did not testify to that to the Senate back on
11:15:20 5 September 11, 2021?

11:15:27 6 A. I do not have my testimony from the Senate in front of
11:15:34 7 me, so I cannot say with certainty that I used the term
11:15:42 8 intentional discrimination in this context.

11:15:54 9 MS. CORBELLO: Permission to approach the witness,
11:15:56 10 Your Honor.

11:15:56 11 BY MS. CORBELLO:

11:15:57 12 Q. Flip to tab one in that binder for me and go to page
11:16:06 13 53.

11:16:23 14 A. Okay.

11:16:23 15 Q. Go down to lines 16 on page 53 for me.

11:16:31 16 JUDGE SMITH: Are you going to identify what you just
11:16:35 17 handed to him?

11:16:37 18 MS. CORBELLO: Yes, sir.

11:16:39 19 BY MS. CORBELLO:

11:16:39 20 Q. Mr. Brooks, you're looking at deposition testimony
11:16:40 21 that you gave on January 20th, 2022nd; is that right?

11:16:45 22 A. Yes.

11:16:45 23 Q. You gave this testimony under penalty of perjury?

11:16:48 24 A. Yes.

11:16:48 25 Q. Do you recognize this deposition testimony that you

11:16:54 1 gave on page 53?

11:16:57 2 A. Yes.

11:16:58 3 Q. At line 16 you see it says:

11:17:04 4 "Question: So you're advocating against reconfiguring
11:17:08 5 District 33, Congressional District 33, as a Hispanic
11:17:11 6 district; is that fair to say?"

11:17:13 7 Your answer was: "Yes."

11:17:14 8 Is that right?

11:17:14 9 A. Yes.

11:17:15 10 Q. And then at line 20 it asks:

11:17:19 11 "In doing, so it was your opinion that that would be a
11:17:22 12 legal and intentional discrimination, correct?"

11:17:25 13 And you said: Answer: "Correct."

11:17:26 14 Is that right.

11:17:27 15 A. Yes, that is correct.

11:17:29 16 Q. And the last question there at line 23?

11:17:33 17 "And when you said intentional discrimination, did you
11:17:37 18 mean against minority residence, including black
11:17:41 19 residents?"

11:17:41 20 And at line -- page 54, line 1, you answered:

11:17:44 21 "Correct."

11:17:44 22 Right?

11:17:45 23 A. That is correct.

11:17:45 24 Q. So refreshing your recollection with your deposition
11:17:53 25 testimony, is it fair to say that it was your testimony to the

11:17:57 1 Senate that reconfiguring Congressional District 33 into a
11:18:03 2 Hispanic district would have caused intentional discrimination
11:18:06 3 against African-Americans?

11:18:10 4 A. Yes.

11:18:11 5 Q. Within that testimony you praised the work of five
11:18:19 6 democratic congresspersons, right?

11:18:22 7 A. Five democratic.

11:18:25 8 Q. Democratic, Senate or congress member, house of
11:18:31 9 representatives right?

11:18:32 10 A. Yes.

11:18:33 11 Q. In that testimony, did you praise any Republican
11:18:42 12 leadership?

11:18:42 13 A. No.

11:18:42 14 Q. And in that testimony, you didn't advocate for any
11:18:46 15 district to be created in a way that made them majority
11:18:48 16 Republican, right?

11:18:49 17 A. I did not.

11:18:50 18 Q. In fact, your preference when you were -- that you
11:18:54 19 were trying to convey with this testimony, was that democratic
11:18:59 20 districts be created, wasn't it?

11:19:05 21 A. No. I believe I specifically said in my testimony
11:19:11 22 that I was not asking them to create either democratic or
11:19:18 23 Republican majority districts. I was asking them to create
11:19:21 24 districts that treated African-American and Hispanic voters
11:19:28 25 fairly.

11:19:28 1 Q. Is it your testimony that in giving that testimony in
11:19:31 2 the Senate on September 11th, 2021, you were not advocating for
11:19:36 3 your personal preference of creating democratic majority
11:19:40 4 districts?

11:19:50 5 A. I really don't understand the question. I answered
11:19:56 6 the question before, which is essentially the same question.

11:20:03 7 Q. Turn to page 62 of your deposition for me, Mr. Brooks.
11:20:03 8 The second sentence that starts there you say:

11:20:16 9 "As I did not ask them to create democratic
11:20:41 10 majorities. It's not about party."

11:20:43 11 You're talking about the testimony you gave on
11:20:45 12 September 11th, correct?

11:20:46 13 A. Correct.

11:20:47 14 Q. Okay. On line 3, the question I ask you is:

11:20:50 15 "Well, even though you weren't asking them to create
11:20:56 16 democratic majorities, would you just personally, Mr.
11:20:58 17 Brooks, prefer a democratic majorities over
11:21:00 18 Republican majorities to have been created when you
11:21:02 19 were giving this testimony?"

11:21:04 20 Answer: "I'm a Democrat."

11:21:06 21 Question: "So yes?"

11:21:07 22 Answer: "I'm a democratic."

11:21:10 23 Question: "So the answer is yes or no, Mr. Brooks?"

11:21:13 24 For the record it needs to be clear."

11:21:15 25 Answer: "The answer is yes."

11:21:17 1 Do you see that?

11:21:18 2 A. Yes. That's what it says.

11:21:25 3 MR. GAINES: Your Honor. I object. This question has
11:21:27 4 already been asked and answered. He's already answered the
11:21:31 5 question. I object to that.

11:21:32 6 JUDGE GUADERRAMA: All right.

11:21:33 7 Did you have anything further on this line?

11:21:36 8 MS. CORBELLO: No, Your Honor. Just simply for
11:21:37 9 purposes of impeachment.

11:21:44 10 BY MS. CORBELLO:

11:21:44 11 Q. For the written testimony you gave to the House and
11:21:44 12 Senate, you had help in writing that testimony, right?

11:21:46 13 A. That's correct.

11:21:47 14 Q. You had help from Beverly Powell and her team in
11:21:51 15 preparing that testimony; is that correct?

11:21:53 16 A. That's correct.

11:21:53 17 Q. And you also had help from the Loan Star Democrats in
11:21:58 18 writing that testimony?

11:21:59 19 A. That's correct.

11:22:00 20 Q. Loan Star Democrats wrote a part of the testimony and
11:22:06 21 gives it to you, correct.

11:22:07 22 A. They assisted me in writing it, yes.

11:22:10 23 Q. They wrote portions of the testimony for you, didn't
11:22:13 24 they, Mr. Brooks?

11:22:15 25 A. Yes.

11:22:15 1 Q. And it was Matt Angle at Loan Star Democrats that
11:22:22 2 helped you write that portion of your testimony, right?

11:22:24 3 A. Yes.

11:22:24 4 Q. He's the founder and director of Loan Star, currently?

11:22:30 5 A. Yes.

11:22:31 6 Q. He works there closely with Beverly Powell as well,
11:22:37 7 correct?

11:22:37 8 A. Yes.

11:22:38 9 Q. In fact, are you aware that she's given a quote to be
11:22:44 10 prominently displayed on their website?

11:22:48 11 A. No.

11:22:48 12 Q. Are you aware that Beverly Powell has stated that Loan
11:22:49 13 Star Project was essential to having her get re-elected in 2018?

11:22:55 14 A. No, I'm not.

11:22:56 15 Q. Does it surprise you that Beverley Powell feels that
11:23:00 16 way?

11:23:01 17 A. No, it does not.

11:23:02 18 Q. You worked with Loan Star on other redistricting
11:23:06 19 matters, right?

11:23:06 20 A. Yes.

11:23:07 21 Q. You have meetings with them both pre and post
11:23:11 22 redistricting legislative sessions to discuss strategies about
11:23:17 23 redistricting?

11:23:17 24 A. That is correct.

11:23:19 25 Q. The Loan Star Project is a group whose mission it is

11:23:22 1 to increase Democrat leadership in Texas, right?

11:23:26 2 A. Correct.

11:23:27 3 Q. Are you aware that their website says, quote:

11:23:30 4 "Beating Republicans is our bottom line," unquote?

11:23:35 5 A. I am not aware of what their website says.

11:23:40 6 Q. Given your extensive work with them, does it surprise
11:23:43 7 you that that says that on their website?

11:23:47 8 A. It would not surprise me, no.

11:23:50 9 Q. Loan Star works with you because you were someone that
11:23:53 10 can help them beat Republicans and meet their bottom line,
11:23:58 11 right?

11:23:58 12 A. I suppose.

11:24:00 13 Q. And so if you succeed today on this preliminary
11:24:04 14 injunction hearing and get the relief that you are asking this
11:24:07 15 Court, is it fair to say that you and Loan Star Democrats will
11:24:11 16 see that as a win against Republicans?

11:24:27 17 A. I would consider it a win for the African-American and
11:24:33 18 Hispanic voters in Senate District 10.

11:24:36 19 Q. Would you consider it a loss for the Democrats if you
11:24:42 20 win your preliminary injunction relief that you are asking for?

11:24:43 21 A. I would consider it a loss for the African-American
11:24:47 22 and Hispanic voters in Senate District 10.

11:24:51 23 MS. CORBELLO: Object as nonresponsive.

11:24:53 24 BY MS. CORBELLO:

11:24:53 25 Q. Mr. Brooks, if you could just answer my question.

11:24:55 1 Would you consider it a loss for the Democrats if you
11:24:57 2 were to succeed in your preliminary injunction relief?

11:25:01 3 A. I believe I answered your question.

11:25:03 4 Q. Well, Mr. Brooks, I haven't heard you answer anything
11:25:06 5 about the Democrats, yet. I'm going to have to ask you to
11:25:13 6 answer.

11:25:13 7 MR. GAINES: This is his answer to the best of his
11:25:15 8 ability.

11:25:23 9 JUDGE GUADERRAMA: I'm going to overrule that, Mr.
11:25:23 10 Gaines.

11:25:25 11 It's a long question, but if you listen carefully to
11:25:25 12 it, please give her the answer.

11:25:28 13 THE WITNESS: All right.

11:25:29 14 BY MS. CORBELLO:

11:25:30 15 Q. If you succeed in your preliminary junction hearing
11:25:33 16 today and get the relief you wanted, would you and Loan Star
11:25:37 17 Project consider that a loss for Democrats?

11:25:41 18 A. It would be a loss of a senatorial district, yes.

11:25:46 19 Q. A senatorial district that is at least under the
11:25:50 20 Benchmark plan more Democrat than Republican, right?

11:25:54 21 A. Correct.

11:25:55 22 Q. You told your counsel -- I'm sorry. Scratch that.

11:26:00 23 You work with several other local groups other than
11:26:04 24 the statewide Loan Star Project?

11:26:06 25 A. That is correct.

11:26:06 1 Q. You work with 820 Democratic Club?

11:26:11 2 A. Yes.

11:26:11 3 Q. Mid City Democratic Club?

11:26:13 4 A. Yes.

11:26:13 5 Q. Arlington Democratic Club?

11:26:15 6 A. Yes.

11:26:16 7 Q. Stonewall Democratic Club?

11:26:17 8 A. Yes.

11:26:18 9 Q. You're also a member of the State Democratic Party,

11:26:22 10 right?

11:26:22 11 A. Correct.

11:26:23 12 Q. And you work with other members of the State

11:26:28 13 Democratic Party on redistricting issues, right?

11:26:30 14 A. Yes.

11:26:31 15 Q. And as you told your counsel, this isn't your first

11:26:34 16 time to the contributing to the plaintiff's side of a

11:26:37 17 redistricting case in Texas, is it?

11:26:39 18 A. No, it is not.

11:26:42 19 Q. You have been involved in at least four other

11:26:45 20 redistricting cases as a plaintiff; is that right?

11:26:49 21 A. Ask that again?

11:26:50 22 Q. You've been involved in at least four other

11:26:53 23 redistricting cases as a plaintiff; is that right?

11:26:57 24 A. I've been involved in at least four other

11:27:07 25 redistricting cases as either a plaintiff or a witness. I'm not

11:27:11 1 sure I was a plaintiff in all of the them.

11:27:15 2 Q. Well -- so for all four of those redistricting cases,
11:27:18 3 whether you were plaintiff or a witness, you were never a
11:27:23 4 plaintiff or a witness advocating for maps to be drawn for
11:27:28 5 favorably to a Republican?

11:27:30 6 A. That's correct.

11:27:31 7 Q. Each time you participated in a redistricting case,
11:27:33 8 either as a plaintiff or a witness, the maps you were advocating
11:27:38 9 for would have created more favorable district for Democrats; is
11:27:41 10 that fair to say?

11:27:44 11 A. Yes.

11:27:45 12 Q. Do you remember your counsel asking you a little bit
11:27:55 13 about the new Senate District as it exists under the map that
11:28:03 14 has passed through the 87th Legislative Session?

11:28:06 15 A. I do.

11:28:06 16 Q. You said it has joined with several other counties,
11:28:08 17 right?

11:28:08 18 A. Yes.

11:28:09 19 Q. You don't know anything about these other counties, do
11:28:14 20 you?

11:28:14 21 A. I know some things about those counties.

11:28:28 22 Q. You've -- other than Johnson County, have you been in
11:28:34 23 any of those other counties that are now part of SD-10 in the
11:28:38 24 plan S2168?

11:28:42 25 A. I had been in Parker.

11:28:47 1 Q. Other than Parker and Johnson County, have you been in
11:28:51 2 any of the others?

11:28:52 3 A. I have not.

11:28:53 4 Q. Are you aware of how many counties were involved in
11:28:56 5 the new drawing of SD-10?

11:28:59 6 A. I believe there was seven, but I cannot name them.

11:29:15 7 Q. You haven't looked at any demographics of those other
11:29:19 8 counties, have you?

11:29:20 9 A. No.

11:29:20 10 Q. You haven't studied the voter population in any way
11:29:24 11 for any of those other counties, have you?

11:29:26 12 A. No.

11:29:27 13 Q. You speak with community leaders within Tarrant County
11:29:33 14 about voters in Tarrant County, right?

11:29:34 15 A. Yes.

11:29:35 16 Q. You don't speak with the community leaders with the
11:29:38 17 other counties, right?

11:29:39 18 A. No, I don't.

11:29:40 19 Q. You don't have any idea of the percentage of
11:29:45 20 Republican to Democrat in any of those counties that joined in
11:29:48 21 SD-10 new plan, do you?

11:29:51 22 A. The specific percentages, no.

11:29:56 23 Q. And you don't have any specific percentages of --
11:29:59 24 broken down by race for any of those -- any of those counties
11:30:03 25 that have been joined in the new SD-10?

11:30:09 1 A. Not the specific percentages; however, I am aware --

11:30:15 2 Q. Mr. Brooks --

11:30:17 3 A. -- majority Republican, majority white counties.

11:30:25 4 MS. CORBELLO: I'm going to object as non-responsive
11:30:27 5 to everything after however.

11:30:29 6 JUDGE GUADERRAMA: Sustained.

11:30:35 7 BY MS. CORBELLO:

11:30:35 8 Q. Mr. Brooks, is it fair to say that you are asking the
11:30:36 9 Court today to keep SD-10 drawn the same way it was before the
11:30:39 10 87th Legislative Session?

11:30:42 11 A. That is correct.

11:30:43 12 Q. And for the -- for the Benchmark SD-10, for now, do
11:30:49 13 you understand what I mean by that?

11:30:49 14 A. Yes.

11:30:50 15 Q. Benchmark SD-10 is what Beverly Powell was elected
11:30:55 16 under the last time, right?

11:30:56 17 A. Yes.

11:30:56 18 Q. So fair to say Benchmark SD-10 is a democratic
11:31:02 19 district?

11:31:02 20 A. Yes.

11:31:03 21 Q. Benchmark SD-10 does not have the percentage of
11:31:08 22 African-Americans and Hispanics that combine to make the
11:31:11 23 majority of the CVAP, does it?

11:31:14 24 A. No.

11:31:14 25 Q. Under Benchmark SD-10, the CVAP was majority Anglo,

11:31:21 1 correct?

11:31:21 2 A. Correct.

11:31:22 3 Q. You testified a moment ago with your counsel that in
11:31:29 4 this past 87th Legislative Session, the map for S. B. O. E.
11:31:37 5 Kept Tarrant County intact. Is that what you said?

11:31:44 6 MR. GAINES: Object. I think what he said was the
11:31:46 7 minority community in Tarrant County was, in fact, not Tarrant
11:31:52 8 County.

11:31:52 9 MS. CORBELLO: I'll rephrase.

11:31:54 10 BY MS. CORBELLO:

11:31:54 11 Q. The minority communities within Tarrant County were
11:31:57 12 kept intact for the SBOE map, right?

11:32:01 13 A. Yes.

11:32:02 14 Q. So the same legislative body in involved in altering
11:32:06 15 SD-10, kept the minorities community together for the purposes
11:32:10 16 of SBOE is that your testimony?

11:32:17 17 A. Yes.

11:32:17 18 Q. The same legislative body that altered SD-10 did not
11:32:25 19 go through and crack the minority districts under the SBOE map?

11:32:31 20 A. No.

11:32:32 21 Q. You also testified with your counsel a moment ago that
11:32:35 22 for the congressional district maps, the legislative body, the
11:32:40 23 87th Legislative Session managed to keep the minority
11:32:43 24 communities in Tarrant County intact?

11:32:45 25 A. Correct.

11:32:46 1 Q. So the same legislative body that altered SD-10 kept
11:32:50 2 the communities together -- the minority communities together
11:32:51 3 for the purposes of the congressional district maps?

11:32:55 4 A. Correct.

11:32:55 5 Q. They did not go through and crack the minority
11:32:59 6 districts -- the same legislative body that altered SD-10 did
11:33:04 7 not go through and crack the minority community for purposes of
11:33:07 8 the congressional districts?

11:33:09 9 A. They did not.

11:33:30 10 MS. CORBELLO: Pass the witness, Your Honor.

11:33:32 11 JUDGE GUADERRAMA: Mr. Gaines?

11:33:32 12 MR. GAINES: No further questions.

11:33:35 13 JUDGE GUADERRAMA: May Commissioner Brooks step down?
11:33:42 14 He's remaining in the courtroom.

11:33:54 15 Who is your next witness?

11:33:54 16 MR. DUNN: Dr. Matt Barreto.

11:34:42 17 (Witness present and sworn.)

11:34:42 18 DR. MATT BARRETO,

11:34:42 19 DIRECT EXAMINATION BY THE PLAINTIFF

11:34:42 20 BY MR. DUNN:

11:35:40 21 Q. Please state your name?

11:35:40 22 A. My name is Matthew A. Barreto.

11:35:45 23 Q. And how are you employed?

11:35:46 24 A. A Professor of Political Science in Chicano Studies
11:35:52 25 and --

11:35:52 1 (Court reporter asks for clarification).

11:35:55 2 BY MR. DUNN:

11:35:55 3 Q. And I was just about to tell you. We got to speak
11:36:00 4 loudly here in this room, given it's wonderful size and
11:36:04 5 decorations, so I may ask you occasionally to speak up. Okay?

11:36:05 6 A. Okay.

11:36:06 7 Q. Excellent.

11:36:06 8 Tell us a little bit about yourself, where you grew up
11:36:10 9 and that sort of thing.

11:36:12 10 A. Sure. I was born to San Juan, Puerto Rico. I only
11:36:17 11 lived there a short while, then my family moved to the Kansas
11:36:22 12 City, Missouri area. I lived there for a few years and then was
11:36:25 13 primarily raised in Topeka, Kansas. I graduated from high
11:36:31 14 school there. And then attended college in New Mexico and then
11:36:38 15 pursued any Ph.D. in California.

11:36:42 16 Q. We'll talk about that more, of course, but your
11:36:45 17 mother's got kind of a civil rights history; is that true?

11:36:46 18 A. Yes, in Topeka.

11:36:49 19 Q. Tell us.

11:36:50 20 A. My mother was a kindergarten teacher Sumner
11:36:56 21 Elementary, which was the school that Linda Brown lived across
11:37:00 22 the street from and wanted to go to school at and was not
11:37:04 23 allowed to and was a part of the very famous *Brown v. The Board*
11:37:11 24 *of Education* case. In fact, it was kindergarten that Linda
11:37:18 25 Brown was to be enrolled in the room that my mom taught in, of

11:37:22 1 course much later. But eventually, she, my mother, became very
11:37:31 2 friendly and acquainted from with the Brown family. Every year
11:37:36 3 on the anniversary they would come to and participate in
11:37:38 4 teaching the history to the students of that important case.

11:37:42 5 Q. Let's turn our attention to your education, sir. Can
11:37:46 6 you tell us where you went to undergraduate?

11:37:49 7 A. I have a bachelor's degree in political science at
11:37:54 8 Eastern New Mexico University. It was in Portales, New Mexico.
11:37:59 9 And I was there from 1994 to 1998.

11:38:02 10 Q. And then where did your studies take you?

11:38:05 11 A. I then moved to southern California and I enrolled in
11:38:11 12 a master's program at Claremont Graduate University, which I did
11:38:17 13 for one year. I met a handful of very influential researches
11:38:24 14 there who encouraged me to go on and pursue my Ph.D., which I
11:38:29 15 did, and applied for the next year and enrolled, and then
11:38:33 16 completed my Ph.D. at California of Irvine.

11:38:38 17 Q. What is it that motivated you to continue with these
11:38:41 18 graduate studies?

11:38:45 19 A. Well, I have always been interested in issues,
11:38:48 20 representation in the Latino community. Both my parents were
11:38:54 21 involved in the local LULAC Chapter in Kansas where I grew up
11:39:00 22 and my dad actually ran -- was a director of a health systems
11:39:05 23 agency that had to do reporting to the state. And I can recall
11:39:10 24 when I was young going with him sometimes when he had to present
11:39:15 25 reports to the Kansas State Legislature. I thought that was

11:39:20 1 really interesting and fascinating. I was interested in
11:39:24 2 politics for a long time.

11:39:26 3 When I got to California, it gave me a great
11:39:30 4 opportunity to continue this interest, because there was such a
11:39:34 5 large Hispanic population there and there were many universities
11:39:40 6 where I could pursue working on these topics, and so I decided
11:39:45 7 to pursue my Ph.D.

11:39:48 8 Q. What is it you decided to focus on in your education
11:39:51 9 in terms of methods?

11:39:53 10 A. The subfield I concentrated on broadly was referred to
11:39:59 11 as American politics. And within there is a subfield called
11:40:03 12 race ethnicity politics, often abbreviated by the letters today
11:40:11 13 REP, within those fields, American politics and race and
11:40:14 14 ethnicity politics. I concentrated in on quantitative and
11:40:17 15 statistical methods for understanding public opinion in voting
11:40:23 16 patterns of different racial and ethnic groups in the United
11:40:27 17 States.

11:40:27 18 Q. Who was your adviser in the Ph.D. studies?

11:40:31 19 A. My principal adviser was Dr. Bernard Groffman.

11:40:35 20 Q. And what has been his history and role in political
11:40:40 21 science?

11:40:40 22 A. He studies a little bit of everything, but his main
11:40:44 23 concentration is might similar to mine in understanding manner
11:40:49 24 politics ration and ethnic politics. And he has been one of the
11:40:54 25 best known voting rights expert witnesses in analyzing voting

11:41:03 1 patterns, but also pioneering methodologies for the proper study
11:41:10 2 of voting patterns. And because I had similar interests, it was
11:41:14 3 a very good fit for me to study with Dr. Groffman at Irvine.

11:41:20 4 Q. Have you and he published together?

11:41:22 5 A. We have.

11:41:23 6 Q. After you completed your studies, walk us through your
11:41:27 7 employment history, please.

11:41:28 8 A. I completed my Ph.D. at U.C. Irvine in 2005. I then
11:41:34 9 applied for different professor jobs. I was very interested in
11:41:41 10 continuing my work as a researcher, but also as a professor and
11:41:47 11 a teacher. And I accepted a job at University of Washington in
11:41:51 12 Seattle and I started that job in the fall of 2005.

11:41:57 13 Q. And then where did you go?

11:42:00 14 A. I was at the University of Washington for nine and a
11:42:03 15 half years. I was promoted to tenure there and I was also
11:42:07 16 promoted to full professor in my time there. In the end of
11:42:13 17 2014, beginning of 2015, right in the middle of the academic
11:42:19 18 calendar, I accepted a job and moved to the University of
11:42:24 19 California Los Angeles, which I started in January of 2015 at
11:42:28 20 the appointment level of full professor with tenure.

11:42:32 21 Q. Is that where you are today?

11:42:33 22 A. Yes, it is.

11:42:34 23 Q. What are your positions there?

11:42:36 24 A. Well, my academic facility position is split between
11:42:41 25 two departments; the Department of Political Science and the

11:42:44 1 Department of Chicano and Chicano in Central American Studies.
11:42:50 2 Both of those are in the school of social science. I also have
11:42:56 3 appointment in the public policy department, which is in the
11:43:01 4 school of public affairs.

11:43:02 5 Q. And you've done work aside from your academic work; is
11:43:07 6 that true?

11:43:07 7 A. Yes, I have.

11:43:08 8 Q. What is that?

11:43:09 9 A. Well, I have been actively involved since finishing my
11:43:18 10 Ph.D., graduating in doing voter analysis that has assisted in
11:43:23 11 various voter rights cases. Some of the early cases were
11:43:28 12 referred to me by Dr. Groffman when he was getting too busy and
11:43:33 13 he knew I had the capabilities to do this type of work. So
11:43:38 14 really since I graduated in '05, and when I started as a Ph.D.
11:43:43 15 student still, I have done a lot of consulting as an expert
11:43:47 16 witness in voting rights cases as well as some other litigation,
11:43:52 17 but I would say broadly within the civil rights area.

11:43:56 18 Q. Have you done work on behalf of candidates or
11:43:59 19 campaigns or officers?

11:44:00 20 A. Yes, I have. In addition to my work as an expert
11:44:05 21 witness, around 2007, 2008, I started a political consulting
11:44:13 22 venture with a very close friend of mine, Dr. Gary Segura, and
11:44:20 23 we provided public opinion and polling analysis primarily at the
11:44:26 24 start to Hispanic interest groups.

11:44:29 25 Q. Did that transition into working for individual

11:44:35 1 candidates?

11:44:36 2 A. Yes. Eventually over the years as our consulting firm
11:44:41 3 got to be better known, especially in the nation's Capitol, we
11:44:47 4 started to attract the attention of political parties and
11:44:53 5 candidates themselves.

11:44:54 6 Q. What are some of the candidates you worked with?

11:44:58 7 A. I believe the first candidates we first decided to
11:45:02 8 work for -- we've been approached by others and decided that
11:45:04 9 they would not be the right time -- so the first was in the 2016
11:45:08 10 election cycle and we worked for the Hillary Clinton's campaign
11:45:15 11 as Hispanic research in polling. We worked as well for Senator
11:45:24 12 Cortez Masso in her Senate campaign. We worked for Senator
11:45:30 13 Michael Bennett in his Senate campaign. If I'm getting the
11:45:36 14 years right, I believe those were in '16.

11:45:38 15 Q. Were you involved in the recent Presidential election?

11:45:40 16 A. Yes, I was.

11:45:41 17 Q. How so?

11:45:42 18 A. I was hired by the Biden Presidential Campaign at the
11:45:50 19 close of the democratic primary cycle to do Hispanic research
11:45:58 20 and polling and focus groups to give them advice and information
11:46:04 21 about Hispanic voters.

11:46:05 22 Q. Do you advise the White House today?

11:46:08 23 A. Yes, I do.

11:46:09 24 Q. Does any of that work have to do with your testimony
11:46:12 25 here in this courtroom?

11:46:14 1 A. Not at all. I collect data as a social scientist. I
11:46:20 2 try to collect it in the best objective way I can. I firmly
11:46:23 3 believe that no matter who you're giving presentations to, you
11:46:26 4 need to be giving them good data and accurate data and that's
11:46:30 5 what I do regardless of who I'm advising.

11:46:35 6 Q. Is it fair to describe you as a Democrat?

11:46:38 7 A. I believe in California. I am registered as a
11:46:44 8 Democrat. I would have to check the voter roll, but yes.

11:46:45 9 Q. Is that important of your analysis and opinion you are
11:46:49 10 going to offer today?

11:46:50 11 A. No, not at all.

11:46:52 12 Q. What informed data do you claim to offer today?

11:46:54 13 A. Well, data and social science. I have accomplished
11:46:58 14 many social science articles and I take that same approach to
11:47:04 15 any project that I start. Do we have accurate data? Are we
11:47:11 16 employing accurate methodologies? And then looking at those
11:47:15 17 results, what are those conclusions? I firmly believe that the
11:47:19 18 reason that any interest group or candidate work with me is
11:47:24 19 because I'm giving them accurate information and not just
11:47:27 20 spinning stories for them. I take that approach to every
11:47:31 21 project I start and I've done so today.

11:47:34 22 Q. Have you had occasions when the data doesn't reflect
11:47:37 23 what you had hoped to be the outcome?

11:47:39 24 A. Well, I never hope for any sort of outcome. I just
11:47:43 25 analyze the data and report what the results are. There are

11:47:47 1 times where I analyze data that perhaps doesn't reflect the
11:47:53 2 hopes of the end client, and if that's the case, I tell them and
11:47:59 3 I give them that advice.

11:48:00 4 Q. Now, returning back to your training, education and
11:48:05 5 experience, you should have on your screen before you,
11:48:08 6 Dr. Barreto, Brooks's Plaintiff's 105. That's been marked and
11:48:13 7 not admitted. Would you identify this document?

11:48:16 8 A. What is on the screen in front of me is my academic
11:48:21 9 CV, my list of publications and accomplishments as a professor.

11:48:27 10 Q. Has this been prepared by you?

11:48:29 11 A. Yes.

11:48:29 12 Q. Where it states your education, is that accurate?

11:48:33 13 A. Yes, that is accurate.

11:48:35 14 Q. The CV that you provided to the Court, you can see in
11:48:39 15 this left-hand column, is approximately 13 pages?

11:48:43 16 A. Yes.

11:48:44 17 Q. You have a paper copy there with you; is that true?

11:48:47 18 A. That is true.

11:48:49 19 Q. Now, we don't need to go through the whole thing.
11:48:52 20 Obviously can you give us a sense to page two. Can you give us
11:48:56 21 a sense of what you are summarizing in most of these pages?

11:48:59 22 A. Starting on page two is titled Publication Record.
11:49:05 23 And here I've listed the books that I have authored or
11:49:10 24 co-authored. And then below the books, I've listed the peer
11:49:15 25 reviewed social science journal articles that I have authored in

11:49:21 1 reverse chronological order, so that the first one listed is
11:49:25 2 among the more recent, all the way down to number one, which
11:49:30 3 should be among the oldest articles that I have accomplished.

11:49:34 4 Q. Looking at page two of Exhibit 105, it looks like you
11:49:39 5 are up to number 77 in terms of peer-review article; is that
11:49:43 6 true?

11:49:44 7 A. Yes.

11:49:44 8 Q. What does it mean to have a post peer-review article?
11:49:49 9 Can you write whatever you want?

11:49:50 10 A. No, you can't. It's a long process. Starts with
11:49:53 11 developing the research question, then finding the most
11:49:57 12 appropriate data, then find the most appropriate data to analyze
11:50:03 13 that data. Then there's a draft of the paper written, if there
11:50:08 14 are co-authors shared and provided comments and feedback. Many
11:50:13 15 academics will present the polished drafts at academic
11:50:19 16 conferences to get more feedback from colleagues. So there's a
11:50:23 17 process of refinement and improvement. And ultimately you
11:50:29 18 submit your article to a journal and your name is taken off.
11:50:34 19 You don't know who's reading it. It's what's called
11:50:37 20 double-blind review. They don't know us. We don't know them.
11:50:41 21 And they provide commentary, quite critical, to assess whether
11:50:46 22 or not the paper should be accomplished. Through those rounds
11:50:50 23 there's typically a revision by the author, and then ultimately
11:50:55 24 resubmitted and the editor of the journal would have the final
11:51:00 25 say on what's being published, so it's a quite rigorous process.

11:51:04 1 We think it's important to the scientific process that people go
11:51:09 2 through a review and so these articles I listed are peer
11:51:13 3 reviewed and have gone through that process.

11:51:16 4 Q. How many years has it been since you've been
11:51:19 5 publishing in journals?

11:51:20 6 A. I started as a graduate student, which is quite
11:51:24 7 common. When you start graduate studies, you work with faculty
11:51:30 8 research as their research assistant as full co-authors on their
11:51:35 9 projects. That was the case for me. So sometime in the early
11:51:39 10 2000s, I would've started, so I'd say for approximately
11:51:44 11 20 years.

11:51:44 12 Q. How would you describe the volume of publications
11:51:49 13 you've had at this stage compared to others?

11:51:53 14 A. Well, as I've listed here, I think I have five books,
11:51:59 15 over 75 articles and book chapters that I have published. It is
11:52:07 16 a fairly large amount. I don't have others in front of me, but
11:52:13 17 I also list the number of times my papers have been cited by
11:52:19 18 others here, which is another metric of the sort of impact that
11:52:24 19 folks are having. So I've been pleased with the papers I've
11:52:27 20 been able to publish, especially on the topic of racial and
11:52:32 21 ethnic voting patterns. I'd say it's probably the most in
11:52:39 22 political science today.

11:52:40 23 Q. You and I have published together?

11:52:45 24 A. Yes.

11:52:46 25 Q. Page 74 of your CV, do you see that?

11:52:50 1 A. Yes, I do.

11:52:50 2 Q. What was the nature of that publication?

11:52:53 3 A. That was an article that was in the California Law
11:52:55 4 Review that we collaborated with many of our law students and
11:53:05 5 other legal scholars to describe what was happening with the
11:53:16 6 vote-by-mail voting rights questions that were being brought up
11:53:20 7 during the 2020 election and pandemic.

11:53:24 8 Q. One of the arguments is whether or not states that
11:53:27 9 allow vote-by-mail under the 26 Amendment to all voters of every
11:53:32 10 age; is that right?

11:53:33 11 A. That's correct.

11:53:33 12 Q. At least in the Fifth Circuit, we got that one wrong;
11:53:37 13 is that true?

11:53:37 14 A. That's my recollection.

11:53:39 15 Q. Was that one the peer-review articles of statistics
11:53:44 16 and methodologies?

11:53:45 17 A. That was peer reviewed. I remember it was a lot of
11:53:49 18 revisions and critical comments from the review team. I don't
11:53:54 19 recall if that article itself had any statistical methodology
11:54:01 20 tables of summary data, but I'd have to look at the article. I
11:54:06 21 don't believe it was a paper that included a lot of statistical
11:54:12 22 methodology.

11:54:12 23 Q. Give us a sense of types of methodologies that you
11:54:13 24 train others on and that you've been published on that are
11:54:16 25 relevant to our work here today?

11:54:18 1 A. Well, probably the most relevant, I'll start there, is
11:54:21 2 the study of voting patterns by race and ethnicity through a
11:54:28 3 method that's called ecological inference. This is a
11:54:34 4 methodology that I've been working very closely on since
11:54:39 5 graduate studies with Dr. Groffman. In fact, Dr. Groffman and I
11:54:44 6 have published a paper methodologies while I was a graduate
11:54:49 7 student. That is a method for accurately understanding the
11:54:55 8 voting patterns of different racial or ethnic groups when
11:55:00 9 something like an exit pole doesn't exist where we have to use
11:55:06 10 ecological data which is precincts to draw inferences. That's a
11:55:11 11 methodology I use in my expert report in this case. It's one
11:55:15 12 that I've been working on for over 20 years and one that I have
11:55:20 13 published numerous papers on, specifically.

11:55:23 14 Q. Now have you given testimony in court before?

11:55:27 15 A. Yes, I have.

11:55:28 16 Q. Approximately how many times, if you can recall, have
11:55:32 17 you testified as an expert in a legal proceeding?

11:55:34 18 A. I think in my report I suggest that I've been involved
11:55:38 19 in about 3-dozen cases. Not all of those include trial
11:55:44 20 testimony. I'd say probably about 2-dozen include them trial
11:55:50 21 testimony some instances we gave depositions during the pandemic
11:55:57 22 that were video recorded and used as trial testimony but so some
11:56:03 23 are probably in the range of 2-dozen times.

11:56:06 24 Q. Have you been rejected by a court as a qualified
11:56:10 25 expert?

11:56:10 1 A. Once.

11:56:11 2 Q. When was that?

11:56:12 3 A. In the state of Pennsylvania in a state court. I
11:56:18 4 believe they call it Common Wealth Court in Pennsylvania. And
11:56:19 5 in the first district court decision, I was offering an opinion
11:56:26 6 using a public opinion survey on levels of access to voter
11:56:33 7 identification. It was a voter identification challenge and the
11:56:39 8 district court judge dismissed my survey and my report along
11:56:45 9 with I believe three other experts.

11:56:47 10 Q. What happened on appeal?

11:56:50 11 A. Well, the case was appealed. I don't remember if it
11:56:55 12 was the Pennsylvania Supreme Court or whatever the next level
11:57:00 13 was ordered, the judge to reconsider and I believe I went back
11:57:05 14 to the same judge and there was an additional expert that was
11:57:09 15 brought in that justly summarized my methodology and ultimately
11:57:16 16 the courts found in our favor accepted my methodology and report
11:57:22 17 and the Pennsylvania identification law was struck down by state
11:57:27 18 court.

11:57:27 19 Q. Any other courts have you been accepted as an expert?

11:57:30 20 A. Yes, I have.

11:57:31 21 Q. Did you testify here in Texas in the Texas Voter ID
11:57:36 22 case, V. C. v. Abbott?

11:57:38 23 A. Yes, I have.

11:57:39 24 Q. Were you accepted by the Court?

11:57:42 25 A. Yes, the judge in that case specifically referenced

11:57:47 1 the methodology that I used with Dr. Sanchez and the report we
11:57:55 2 used providing that was relevant to her decision.

11:57:59 3 Q. And have you testified in other federal Court matters
11:58:03 4 here in Texas in relation to voting patterns?

11:58:05 5 A. Yes, I have.

11:58:06 6 Q. Now, just a couple for things about your
11:58:10 7 qualifications and we'll turn to this case.

11:58:12 8 Have you prepared or developed a recent -- recent
11:58:18 9 methods that other social sciences are using and software
11:58:24 10 packages that are used such as this?

11:58:26 11 A. Yes. I think there's two important methodological
11:58:32 12 advancements that I have been a part of that are directly
11:58:36 13 related to ecological inference.

11:58:39 14 Q. What is the first one?

11:58:40 15 A. The first was to help settle a debate; which type is
11:58:50 16 more accurate or is the most valid, which one can we learn from?
11:58:57 17 Today there are lots of different approaches to methodology, but
11:59:01 18 there are two main strands of ecological inference, and there
11:59:05 19 are some debates of scholars saying this one is better, no,
11:59:10 20 version two is better. And so with a team of social scientists,
11:59:13 21 there were four of us, we employed a very in depth statistical
11:59:19 22 review of the methodologies. We then compared exactly how they
11:59:26 23 worked and what they're results were. And we published two
11:59:31 24 peer-reviewed social science methods articles discussing that
11:59:38 25 and we crowds and wrote and have distributed for free on a public

11:59:42 1 website, a software package which called E.I. Compare, which is
11:59:45 2 what it sounds like. It's a software package to run different
11:59:51 3 E. I. analyses and compare with a lot of different metrics how
11:59:56 4 those have been produced.

11:59:58 5 Q. And has that been prevalently used now by other people
12:00:04 6 in social science?

12:00:05 7 A. Yes. Our articles themselves have been downloaded and
12:00:10 8 cited numerous times and the software package is also gaining a
12:00:15 9 lot of use by other scholars in their peer-reviewed research, as
12:00:21 10 well as practitioners who e-mail us and ask us questions about
12:00:27 11 it or tell us that they're using it in their, you know, pretrial
12:00:32 12 research to try to determine voting patterns in different
12:00:35 13 jurisdiction s.

12:00:36 14 Q. What was the other method that you mentioned that you
12:00:39 15 recently developed?

12:00:40 16 A. The second method that we've recently pioneered,
12:00:46 17 understanding the rise ethnicity of voters, when that
12:00:49 18 information is not prevalent on the voter file. In some states
12:00:56 19 that we often called, we often referred to as the old Section 5
12:01:02 20 states, predominantly in the south. Many of those still record
12:01:07 21 race on the voter file when you sign up to register to vote. It
12:01:11 22 was a federal requirement for a while. So in those places we
12:01:15 23 actually know the self-reported race and ethnicity of voters at
12:01:23 24 the precinct level in any using census data for surname
12:01:31 25 analysis. And about over 10 years ago, there was a

12:01:37 1 methodological innovation to combine surname analysis and census
12:01:44 2 data to say let's look at both of those.

12:01:47 3 In 2016 I believe it made its way into political
12:01:52 4 science with an article by scholars who were at Princeton who
12:01:58 5 are now at Harvard. And myself and members of the same team
12:02:02 6 that developed the E.I. Compare have been working on ways to
12:02:07 7 further refine and bring directly into voter rights analysis but
12:02:12 8 also for use in social science research a methodology that
12:02:17 9 relies on both surname analysis and census data to give us the
12:02:24 10 most accurate portrait of voters to be used in these cases.
12:02:30 11 That's something that we have published and also devolved into a
12:02:35 12 software package and are continuing to work on that today.

12:02:38 13 Q. What is the name of that?

12:02:40 14 A. That is referred to by the acronym, B-I-S-G. It
12:02:44 15 stands for Bayesian Improved Surname Geocoding.

12:02:50 16 Q. Has that been accepted by a Court?

12:02:54 17 A. Yes it has.

12:02:56 18 Q. And where was that?

12:02:56 19 A. I'll get the dates right, but about two years ago,
12:03:00 20 might have been two-and-a-half, there was a quite a long trial
12:03:05 21 in New York in N.A.A.C.P. v. East Ramapo School District. I was
12:03:14 22 one of the expert witnesses and we used both the E.I. Compare
12:03:20 23 software as well as, because it was quite appropriate in that
12:03:25 24 local jurisdiction. We used this method called B.I.S.G. to give
12:03:29 25 us a more accurate understanding of voters race and ethnicity

12:03:36 1 and that was accepted by the district and appellate court both
12:03:42 2 in that case.

12:03:43 3 Q. Now once that case had been accepted in court, did you
12:03:46 4 and I co-author a law review introducing the methods to lawyers
12:03:48 5 that engaged the voting rights?

12:03:50 6 A. Yes, that's right.

12:03:52 7 Q. Now turning to back to your CV for a second on the
12:03:56 8 final page, you identify a number of people. We don't need to
12:04:02 9 go through a list, but who are these folks?

12:04:05 10 A. Let me just turn to that page.

12:04:08 11 Q. It should be on the screen in front of you.

12:04:19 12 A. I believe you're on page 3, Mr. Dunn?

12:04:28 13 Q. Yes.

12:04:28 14 A. A listing of my Ph.D. students that I've either served
12:04:33 15 as the committee chairperson or one of the committee members in
12:04:36 16 the years I had been a professor at the University of Washington
12:04:42 17 and then today at U. C. L. A.

12:04:46 18 MR. DUNN: Your Honor, at this point, I move for the
12:04:47 19 admission of Brooks' 105.

12:04:50 20 MR. HILTON: Your Honor, I understand it's already
12:04:53 21 been accepted by the Court subject to objection. If I am
12:04:56 22 mistaken about that, the same procedure -- (mumbling).

12:04:59 23 JUDGE GUADERRAMA: All right. We'll admit it subject
12:05:02 24 to objection.

12:05:03 25 MR. DUNN: And Your Honor, just so we know, we've

12:05:06 1 filed an updated exhibit list in CM/ECF in the interim.

12:05:11 2 JUDGE GUADERRAMA: Okay.

12:05:11 3 BY MR. DUNN:

12:05:14 4 Q. Now, let's turn to this case and turn your attention
12:05:18 5 to plaintiff's Exhibit 44 and I want to just ask you -- I'm
12:05:23 6 showing you paragraph 3, but what is it you were asked to do in
12:05:27 7 this case?

12:05:28 8 A. In this case, I was approached by plaintiff's attorney
12:05:39 9 Mr. Gaber, I believe, to assess the Senate plan that was adopted
12:05:45 10 by the State of Texas to look at demographic and voting patterns
12:05:53 11 in particular as they related to areas in and around Tarrant
12:05:58 12 County, Senate Districts 9, 10 and 22, to understand voting
12:06:06 13 patterns by blacks and Hispanic as well as Anglos and to
12:06:11 14 understand demographic changes that have been made to the plans.

12:06:16 15 Q. And how did you -- did you accept this assignment?

12:06:20 16 A. I have.

12:06:21 17 Q. How did you proceed to prepare your analysis?

12:06:24 18 A. First I had to assess which data would be the most
12:06:33 19 relevant to my inquiry, which is always the starting point.
12:06:36 20 There was different types of census data and voting data that I
12:06:41 21 would need in order to complete this. And so I obtained data
12:06:46 22 from these sources that included the Texas Legislative Council.
12:06:53 23 Believe it's called Capitol Data Project. It's a website that
12:07:00 24 has a lot of maps, demographics, as well as precinct by precinct
12:07:07 25 voting results. It also contains precinct by precinct and

12:07:11 1 racial demographics. Those are called V. T. D.s. I believe
12:07:17 2 that's voting districts, but I'm not certain. I know we used
12:07:19 3 the phrased V. T. D.

12:07:21 4 I also then accessed and evaluated data from the
12:07:28 5 Census Bureau, in a couple of different manners, both going to
12:07:34 6 the Census website, which is data.census.gov., but also through
12:07:42 7 the academic portal called Social Explorer, which houses the
12:07:49 8 most up-to-date Census data.

12:07:50 9 Q. The first source of data you mentioned was the TLC
12:07:53 10 data, the Capitol Project. Have you had occasion to use that
12:07:57 11 data before?

12:07:57 12 A. Yes, many times.

12:07:58 13 Q. Have you found it reliable?

12:08:00 14 A. I have.

12:08:01 15 Q. Is it a reasonable source for data for you to analyze
12:08:05 16 and come to opinions you intend to offer today?

12:08:07 17 A. Yes, it is. It's not only frequently used by
12:08:12 18 practitioners, but many social scientists who are interested in
12:08:17 19 voting patterns in Texas, download TLC data and publish it in
12:08:22 20 peer-reviewed articles.

12:08:23 21 Q. Social Explore, what is it?

12:08:26 22 A. That is a software package, which is accessible via
12:08:33 23 the Internet, which houses census data, both current as well as
12:08:38 24 over time, census data. It is used by many academic social
12:08:45 25 scientists to access tables. Some people prefer the interface

12:08:52 1 over itself, but also to evaluate maps. You can look at census
12:08:59 2 data at different geographies such as an overall county or you
12:09:02 3 can zoom in inside of the county and look at little census block
12:09:07 4 groups. It is a software portal that houses census data and be
12:09:11 5 used to create tables, maps or other features.

12:09:14 6 Q. Have you found it to be accurate?

12:09:16 7 A. Yes.

12:09:17 8 Q. Is it regularly relied upon by you and other social
12:09:21 9 scientist in your field to give testimony in cases and to
12:09:25 10 publish works?

12:09:25 11 A. Yes and most absolutely. Most Universities across
12:09:31 12 country have subscriptions to Social Explorer. It's usually
12:09:36 13 used as a research tool. It's widely used and relied upon.

12:09:41 14 Q. And the third source of data you mentioned was census
12:09:45 15 data. How would you obtain it and what source?

12:09:46 16 A. As I said the census data is loaded inside Social
12:09:52 17 Explorer. A lot of people go there just because they prefer the
12:09:53 18 interface. But I also have been working with Census website
12:09:59 19 itself for over 20 years. And so you can also obtain tables and
12:10:08 20 summary statistics by going to data.census.gov. The government
12:10:16 21 tables setting specific county or to a specific Senate District,
12:10:20 22 and so some of the sources I am more familiar going directly to
12:10:26 23 the Census website. I download it from there.

12:10:30 24 Q. Business on training experiencing obtain from the
12:10:33 25 Census website reliable?

12:10:35 1 A. Yes, it is.

12:10:36 2 Q. And is it regularly relied upon by social scientists?

12:10:39 3 A. Extensive. Not only by social scientists, but by
12:10:44 4 industry and many others as being valid and objective source of
12:10:51 5 social racial demographic.

12:10:53 6 Q. All right. I'd like to get a glossary of terms here
12:10:56 7 if I can, with you. We've used a number of acronyms and I
12:11:01 8 expect we will continue to do so in this case. So I'd like to
12:11:03 9 get explanations.

12:11:05 10 What is ACS?

12:11:07 11 A. The ACS is an abbreviation for a Census project or
12:11:13 12 product, I should say, called the American Community Survey.
12:11:18 13 This is an annual survey collected every year. I believe it
12:11:24 14 started in 2005 as an effort to expand upon what had been called
12:11:32 15 the current population survey or CPS. Today the ACS has grown.
12:11:40 16 It's a fairly large annual product from the Census and many
12:11:46 17 people refer to it as just an ACS, by those three letters, but
12:11:53 18 it is understood that's a Census annual survey.

12:11:57 19 Q. How does the Census Bureau determine who will answer
12:12:02 20 the ACS survey?

12:12:03 21 A. I've had to do a lot of research on this, because I
12:12:06 22 was involved in the Census litigation as well. And so I've
12:12:11 23 looked very closely at this, not only in my academic work, but
12:12:15 24 as a part of a lawsuit.

12:12:19 25 The ACS does a household sample. They start by

12:12:25 1 selecting upwards about three and a half percent of households
12:12:30 2 randomly selected across the United States using an sampling
12:12:35 3 algorithm. They ultimately get two to two-and-a-half at max,
12:12:41 4 but usually 2 percent of households participate. And these
12:12:45 5 households are randomly selected across every geography in
12:12:53 6 America. And so any year, your household could get a letter.
12:12:57 7 They're now expanding to do online data collection as well. You
12:13:04 8 get selected. You get an invitation that says you've been
12:13:08 9 selected to participate in the ACS. They accepted. You
12:13:13 10 follow-up to make sure they have a high response rate. And so
12:13:16 11 somewhere on the order of about two percent of households across
12:13:18 12 the United States are selected on any given year to answer
12:13:22 13 questions about their household and the people that live in
12:13:25 14 their household.

12:13:26 15 Q. Now what is it what at data points or some of the data
12:13:29 16 points that are collected in the ACS that's relevant to our
12:13:33 17 inquiry here?

12:13:34 18 A. Well, in particular, the ACS asks about citizenship
12:13:42 19 status of household members something that the census does not
12:13:48 20 ask about. The ACS asks a lot of other questions about your
12:13:52 21 household, your employment patterns, type of automobile, how you
12:13:57 22 get to work, but what concerns us here is they do ask a question
12:14:02 23 about the citizenship status of household members and that
12:14:08 24 allows social scientists and voting right scholars who are to be
12:14:15 25 able to isolate the citizen voting-age population.

12:14:18 1 Q. What do we call that acronym?

12:14:21 2 A. By the first letters of the words there, CVAP,
12:14:25 3 C-V-A-P.

12:14:25 4 Q. Can you also obtain CVAP from ACS?

12:14:31 5 A. So reserve to all adults over the age of 18 and that
12:14:36 6 also comes on an annual basis from the ACS.

12:14:40 7 Q. And how about total population?

12:14:42 8 A. Yes they also enumerate tables with total population
12:14:48 9 on an annual basis from the ACS.

12:14:51 10 Q. Are there or what is different between the Decennial
12:14:57 11 Census and the ACS?

12:14:59 12 A. Well the Decennial Census sets out to not be a sample,
12:15:03 13 number one. It sets out to gather responses from every single
12:15:10 14 known household in the United States. We know that not
12:15:13 15 100 percent of households do respond, but they make every effort
12:15:19 16 to try to maximize the response rate, and so the Census is
12:15:24 17 considered a count that is enumerating the total number of
12:15:28 18 people across the United States in different geographies. That
12:15:33 19 is done only 10 years. The ACS is done every single year. And
12:15:40 20 the Census does not have a question about citizenship status, so
12:15:44 21 it can only tell us the total population and it can also tell us
12:15:49 22 the adult population, because it does have a question about age.

12:15:52 23 Q. Now, are both of these Census products -- the
12:15:56 24 Decennial Census and American Community Survey reliable sources,
12:16:03 25 in your opinion?

12:16:04 1 A. They are. They both have different methodologies, as
12:16:08 2 I have just discussed. And social scientists who use them
12:16:11 3 should be familiar with the methodologies so that they know what
12:16:17 4 the full extent of the limitations might be in either product.

12:16:21 5 Q. One last question on the CVAP and ACS. Are there
12:16:27 6 circumstances in a given voting jurisdiction where you have to
12:16:31 7 look more carefully in terms of having a concern that it might
12:16:35 8 not be accurate?

12:16:35 9 A. Yes. This is what I was just referring to in needing
12:16:41 10 to have a strong familiarity with the methodologies, especially
12:16:43 11 with the ACS because it is a sample.

12:16:46 12 Q. Is there also the case that when the geography changes
12:16:51 13 when you get to smaller locations that ACS needs to have a clear
12:16:56 14 look?

12:16:56 15 A. That's primarily the area that we do pay more
12:17:02 16 attention and oftentimes you'll hear people use what's called
12:17:06 17 the 5-year ACS, because each individual year only has 2 percent.
12:17:13 18 If you can pool together 5 years of data, now you've got about a
12:17:17 19 10 percent sample of the entire country which is pretty big.
12:17:22 20 Even then with 10 percent, when you get down to really small
12:17:27 21 levels of geography, there may not have been thousands and
12:17:33 22 thousands of interviews. The ACS will report on all of its
12:17:37 23 products, a plus or minus margin of error on those estimates and
12:17:43 24 they advise scholars to take those into consideration. When
12:17:48 25 making estimates of the smaller geography you analyze, there are

12:17:54 1 competent interval questions around the population number.

12:17:57 2 Q. So turning to this -- to the work you did with the
12:18:01 3 data on this case, what is it that it told you about the
12:18:07 4 circumstances in Tarrant County?

12:18:12 5 MR. HILTON: Your Honor, before we get into
12:18:15 6 Dr. Barreto's expert opinion, observe the formality of the
12:18:18 7 formal tender. I think he qualifies. (Mumbling).

12:18:23 8 JUDGE GUADERRAMA: All right.

12:18:23 9 Mr. Dunn, are you offering him as an expert.

12:18:27 10 MR. DUNN: Yes, Your Honor, we're offering Dr. Barreto
12:18:29 11 as an expert.

12:18:29 12 BY MR. DUNN:

12:18:30 13 Q. What do you consider yourself as an expert, Dr.
12:18:30 14 Barreto?

12:18:31 15 A. Political science, voting analysis, demographic
12:18:37 16 analysis and I would the Voting Rights Act in redistricting.

12:18:43 17 MR. DUNN: We offer Dr. Barreto for those purposes.

12:18:47 18 JUDGE GUADERRAMA: Mr. Hilton, any objection?

12:18:50 19 MR. HILTON: I think for the limited purpose of his
12:18:53 20 opinion with this hearing, no objection. I think I would
12:18:55 21 quibble again with the characteristics of him being an expert in
12:18:59 22 the Voting Rights Act, certainly legal questions were the
12:19:05 23 (indiscernible). Subject to that, no objection.

12:19:06 24 (Counsel inaudible).

12:19:06 25 JUDGE GUADERRAMA: All right. The Court will except

12:19:08 1 him in as expert in those feels, the social scientist and the
12:19:13 2 voting rights and redistricting.

12:19:13 3 BY MR. DUNN:

12:19:17 4 Q. And to clarify that last question, is the portion of
12:19:17 5 the Voting Rights Act you consider yourself an expert in the
12:19:21 6 racially polarized voting that the cases require?

12:19:26 7 A. I would say the history of it. First of all, I've
12:19:27 8 taught classes specifically about the history of the passage and
12:19:32 9 implementation of the Voting Rights Act. But in particular, the
12:19:36 10 social science analysis that goes into providing evidence to
12:19:42 11 meet different voting right standards, I do not have a J.D. and
12:19:47 12 I am not offering myself as a legal conclusion expert.

12:19:51 13 Q. All right. Turning our attention then back to
12:19:54 14 paragraph 5, what is it you observe about the data you collected
12:20:02 15 from Tarrant County?

12:20:03 16 A. Before I looked specifically at Tarrant County, I
12:20:05 17 wanted to get a sense of the State of Texas as a whole. Knowing
12:20:09 18 that these Senate districts in this part of the state there were
12:20:14 19 puzzle pieces in the entire map. And so I often do this when
12:20:20 20 I'm evaluating redistricting proposals, whether it's for a state
12:20:25 21 or city council, is to say, let's look at the overall
12:20:30 22 jurisdiction in this case. It was the state of Texas. And
12:20:34 23 before I could understand what happened in Tarrant County was at
12:20:41 24 issue, I needed to know what was in the state and get the
12:20:45 25 overall state trends.

12:20:46 1 And so I describe here in paragraph five what had
12:20:50 2 happened, and that is that the State of Texas as a whole,
12:20:54 3 experienced massive growth of nearly 4 million of non-white
12:21:00 4 population, and as a percentage, the Anglo-white population
12:21:09 5 actually experienced the 5 point decline over the last 10 years.
12:21:14 6 So that for me, sort of framed for me going in my understanding
12:21:18 7 that this was a massive growth in the non-white population that
12:21:23 8 we should be observing that, we should be observing growths,
12:21:26 9 when we honed in on any particular geographic region. So
12:21:31 10 paragraph five as I said is a very broad overview of the whole
12:21:34 11 state.

12:21:35 12 Q. Now going to page two of the exhibit, you provided
12:21:42 13 table one. Can you see that, sir?

12:21:44 14 A. Yes. This table is the summary then of the data
12:21:51 15 points that I just described in paragraph five that contains the
12:21:56 16 population by race and ethnicity, in 2020, according to the
12:22:03 17 Census, and compares that to the population by race and
12:22:08 18 ethnicity in 2010. It then lists the numeric change. You can
12:22:14 19 see at the very top the entire State of Texas grew by
12:22:18 20 almost exactly -- just short of exactly 4-million persons, and
12:22:24 21 then the same corresponding change by the each of the different
12:22:26 22 racial or ethnic groups.

12:22:30 23 Q. We don't need to go through each of these bits of
12:22:31 24 data. Can you summarize the change and the various groups?

12:22:36 25 A. So one of the things I am usually looking at how it

12:22:39 1 compares to the state-wide average. The first is important.

12:22:42 2 Let's us know groups are growing at a faster or lower rate.

12:22:47 3 The State of Texas grew by 16 percent, which is a lot
12:22:50 4 of growth in 4 years. It's a lot of demographic shifts that any
12:22:56 5 map, whether it's city council or congressional or a Senate map,
12:22:59 6 is going to have to deal with because there's changes from ten
12:23:04 7 years ago, 16 percent.

12:23:05 8 The Hispanics grew by 21 percent, numerically by 2
12:23:12 9 million. The Anglo population grew the least. They grew by
12:23:16 10 2 percent. Almost unchanged over the 10 years. The
12:23:22 11 African-American or black population grew by 19 percent. Again,
12:23:30 12 faster than the state-wide average. The Asian-American
12:23:31 13 population, among the four major identifiable racial and ethnic
12:23:34 14 groups, grew by the most; 65 percent across the state of Texas
12:23:39 15 by over 600,000.

12:23:42 16 And there is also been something that a lot of social
12:23:46 17 scientists have been studying the increase in the number of
12:23:51 18 American who identify as multi-racial or mixed-race. That is
12:23:56 19 also a notable trend in the State of Texas. So those non-white
12:24:00 20 populations grew by very large amounts over the past ten years.

12:24:03 21 Q. The numbers we see in the multi-racial row, are they
12:24:08 22 included also in the rows above?

12:24:10 23 A. No, they are not. The rows above are often referred
12:24:14 24 to as that race or ethnicity alone, and then there are people
12:24:22 25 who identify with two races or they identify as multiracial and

12:24:26 1 that is that last row.

12:24:28 2 Q. Did you analyze this increase of population in terms
12:24:32 3 of what impact it could have on the State Senate map?

12:24:36 4 A. We -- that's also -- again, this is something I have
12:24:40 5 been involved in, this redistricting cycle, in advising or as an
12:24:45 6 expert witness for different cities, different counties, other
12:24:49 7 states. And I always start at a starting point of understanding
12:24:53 8 how big are your districts that you are trying to draw, how many
12:24:57 9 people do they have, and thinking about that through the lens of
12:25:01 10 the demographic changes in your jurisdiction, whatever that
12:25:04 11 jurisdiction is, again it gives you the ability before you hone
12:25:08 12 in to narrow in on a region to understand the entire playing
12:25:13 13 field that you're dealing with.

12:25:15 14 Here in paragraph six, what I identified was that over
12:25:17 15 the 10 years, there was a 3.8 million increase in non-white
12:25:25 16 residence, given an average Senate district size, about 940,000,
12:25:31 17 that by itself would account for four additional, because these
12:25:35 18 are new people who were not here in 2010, full additional full
12:25:40 19 Senate seats if they were all 100 percent non-white. However,
12:25:47 20 most seats are not 100 percent of one racial group or another
12:25:52 21 and so I looked at it through the lens of majority-minority
12:26:00 22 districts. I used the rate of 67 percent. This is something
12:26:04 23 that would be very commonly understood as minority performing
12:26:09 24 districts where there's a large minority population. And that
12:26:13 25 would quite easily give the ability to say given the 3.8-million

12:26:22 1 people who are new, that could've accounted for six
12:26:26 2 majority-minority Senate districts.

12:26:28 3 Q. You stated here earlier you reviewed Senate Plan
12:26:33 4 S2168, which is the map at issue in thi court case here today,
12:26:37 5 how many additional majority-minority districts did it draw from
12:26:41 6 the Benchmark plan, the plan from 2010?

12:26:44 7 A. None.

12:26:45 8 Q. Now you state here in the last sentence in paragraph
12:26:48 9 6, it's possible -- I'm paraphrasing -- it's possible to draw
12:26:52 10 six additional full Senate districts that are greater than
12:26:56 11 60 percent non-white.

12:26:57 12 Did you sit down with the mapping software and try to
12:27:01 13 draw these maps?

12:27:02 14 A. I reviewed mapping software. It's often a starting
12:27:08 15 point, whether it's through Social Explorer or other mapping
12:27:15 16 software that I use to try to understand where these populations
12:27:18 17 are. Are they so disparate and spread apart that they could
12:27:25 18 never be joined into a district.

12:27:25 19 So I recall before I honed in on Tarrant, the very
12:27:31 20 common, I would say most social scientists do this at the very
12:27:33 21 start, get their hands on the data and try to look at it,
12:27:38 22 evaluating different sort of configurations and seeing where
12:27:43 23 these growths of 3.8-million none-whites were. And I was
12:27:50 24 extremely confident that six additional full Senate seats
12:27:56 25 could've been comprised that were at least 67 percent minority.

12:28:01 1 Q. Turning to page three of your report, you hone in on
12:28:05 2 Tarrant County. And what is the analysis conclusion you provide
12:28:10 3 there?

12:28:10 4 A. This was the area of primary concern was the
12:28:14 5 population in and around Tarrant County. And so after sort of
12:28:19 6 setting the table with the general state demographic, I
12:28:23 7 evaluated the same question: How has Tarrant County changed
12:28:26 8 from the last 10 years from 2010 to 2020; which groups have
12:28:30 9 grown; which groups have stayed the same; and what does that
12:28:36 10 mean for how lines could theoretically be drawn? That is
12:28:43 11 presented in table two, the summary data from the Census.

12:28:47 12 Q. All right. What did the data say with the changes of
12:28:51 13 Tarrant County?

12:28:52 14 A. Well, Tarrant County had robust growth about on par
12:28:58 15 with the state as a whole, one point higher. You recall the
12:29:02 16 State of Texas grew by 16 percent. Tarrant County grew by
12:29:08 17 17 percent, but the same Tarrant County and the state as a
12:29:12 18 whole, that -- and I'll say not only the same pattern; slightly
12:29:16 19 stronger; that the majority population growth is, in this case,
12:29:22 20 entirely responsible for the changes in Tarrant County. The
12:29:28 21 Anglo population, as you can see there listed in the middle,
12:29:32 22 actually had a decline as reported by the Census of about 32,000
12:29:38 23 persons or about 3 percent over the 10 years. So while Tarrant
12:29:42 24 County as a whole grew by 300,000, this was entirely due to the
12:29:49 25 growth of the black, Hispanic, Asian and other multi-racial

12:29:59 1 population.

12:30:00 2 Q. On the Anglo reduction that you note here, 3 percent,
12:30:03 3 how does that compare to the state-wide Anglo data that you
12:30:08 4 reported earlier?

12:30:08 5 A. The state as a whole grew by 2 percent. I think most
12:30:16 6 demographers would consider that to be mostly flat. It went
12:30:20 7 from 11 million to 11 million. It changed from about 187,000,
12:30:26 8 so it wasn't really robust growth, but it was more staying the
12:30:30 9 same.

12:30:31 10 In Tarrant, it was actually decline of 32 thousand of
12:30:37 11 non-Hispanic, Anglo-white population.

12:30:40 12 Q. In turning to page four of your report, you focus your
12:30:43 13 report now to Senate District 10. What is it that you report
12:30:48 14 there?

12:30:48 15 A. Well here is when I start to evaluate the performance
12:30:54 16 of Senate District 10, looking at it's population, and how it
12:31:01 17 has been performing for minority candidates of choice.

12:31:07 18 Q. And what does the data show?

12:31:11 19 A. Well, I start here by discussing the population
12:31:17 20 characteristics of Senate District 10. It is currently a
12:31:21 21 majority-minority district, 61.5 percent non-white population.
12:31:28 22 The largest group of which is Hispanic at 32.2 percent black and
12:31:36 23 African American at 21.5 and Asian American at 5.7 and mixed
12:31:42 24 race or multiracial. It is also a majority-minority adult
12:31:47 25 population voting age population for which it is only

12:31:51 1 43.9 percent Anglo-white.

12:31:55 2 And then I turn to discussing the citizen voting age
12:31:59 3 population or CVAP as we discussed earlier in the testimony.

12:32:04 4 Q. Now, I want to -- well, first your source for this
12:32:09 5 data you reported the Texas Legislative Council; is that true?

12:32:13 6 A. Yes, I believe that's the case in this particular
12:32:16 7 paragraph.

12:32:17 8 Q. And you provide a footnote to the URL for your source
12:32:21 9 for that data; is that right?

12:32:23 10 A. Yes.

12:32:23 11 Q. Now returning back to that paragraph, you focus in on
12:32:29 12 a particular setup, ACS CVAP data, which was that?

12:32:34 13 A. Well the last one that the Texas Legislative Council
12:32:37 14 reported was the 5-year, 2015 to 2019, ACS CVAP data.

12:32:46 15 Q. And why not use one more recent?

12:32:49 16 A. Well, the 2020 ACS is actually going to be delayed and
12:32:58 17 will not be reported in the same manner as any other ACS.

12:33:04 18 Q. Why was it delayed?

12:33:06 19 A. Well, the statisticians and demographers at the Census
12:33:14 20 Bureau have indicated that numerous reports and press releases
12:33:17 21 that they were concerned about the low response rate of the 2020
12:33:22 22 ACS that was collected during the first waives of the COVID
12:33:27 23 pandemic. They not only had a lower response rate, but they
12:33:32 24 report it was unequal response rate by socioeconomic status.

12:33:38 25 In particular, the Census has stated that lower

12:33:42 1 socioeconomic status, individuals, people who are renters, may
12:33:48 2 have been moving around more and less accessible, and they have
12:33:53 3 not released the 2020 ACS, yet, neither as a part of the 5-year
12:33:59 4 package nor as an individual standalone data set.

12:34:03 5 Q. Now absent those, the pandemic and the other
12:34:06 6 difficulties with the 2020 ACS, would you have expected the 2020
12:34:13 7 ACS 1-year and 5-year to have been released by now here in
12:34:17 8 January 25, 2022?

12:34:18 9 A. Yes. Certainly the Census has indicated that in
12:34:21 10 normal years it would've been released at the end of 2021.

12:34:26 11 Q. All right. Because you only had 25 -- or 2015 to
12:34:31 12 2019, 5-year average, that's what you relied on this state -- or
12:34:35 13 this paragraph?

12:34:35 14 A. That's what TLC relied on. That's what they're using.
12:34:39 15 And so I'm citing some tables that they made, but in also
12:34:45 16 visiting Social Explorer or data.census.gov, that is the most
12:34:53 17 ACS product that is currently available for us to evaluate.

12:34:58 18 Q. Now, in focussing in on the 2015 to 2019 ACS data, how
12:35:03 19 would you describe the timeliness in terms of the number?

12:35:06 20 A. Well single-year ACS can you used to tell us something
12:35:11 21 about that single year. So there's also a product called the
12:35:16 22 2019, 1-year data. That should be thought of as fairly accurate
12:35:19 23 for the year 2019, because it only includes those 2 percent of
12:35:24 24 households interviewed in 2019.

12:35:27 25 When we use 5-year data, five times bigger. It has

12:35:33 1 data from 2015, 2016, 2017, 2018 and 2019. The downside of that
12:35:41 2 is it has some older data in it. It has data all the way back
12:35:45 3 in 2015. So in particular, when you're analyzing rapid
12:35:50 4 population change, we tend to think of the 5-year data as
12:35:58 5 centered on the midpoint, that is it has 2 years before 2017,
12:36:03 6 '15 and '16, it has 2 years after 2017, '18 and '19, and so when
12:36:09 7 we compare it to 1-year data, that midpoint of 2017 has been
12:36:16 8 proven that that's really what it reflects. So when I look at
12:36:21 9 '15 to '19 ACS, it sort of stands in for what was the true state
12:36:28 10 of demographics in the year 2017.

12:36:31 11 Q. Now when the Legislature -- I believe the record
12:36:33 12 reflects the Legislature undertook redistricting with respect to
12:36:37 13 this plan in the fall of 2021, what ACS CVAP product would have
12:36:43 14 been available then?

12:36:44 15 A. At that time it would've been the 2015 to 2019 data
12:36:52 16 that they were using if they were evaluating CVAP voting age
12:36:58 17 population.

12:36:59 18 Q. Is it fair to look at the -- I think this is clear,
12:37:02 19 but just to make sure the record is clear -- is it fair to look
12:37:04 20 at 2015 to 2019 CVAP 5-year's data that is the percentage of
12:37:11 21 citizen voting age population or the whole number of citizenship
12:37:14 22 voting age population in a particular geography as of 2019?

12:37:19 23 A. No, not as of 2019. No. As of 2017, as I said.

12:37:24 24 Q. Now returning your attention back to paragraph nine in
12:37:28 25 the last sentence, what is the conclusion you express there?

12:37:30 1 A. I was evaluating the citizen voting population as part
12:37:36 2 of the overrule evaluation of rapid demographic changes in
12:37:42 3 Tarrant County. Given the steady decline in the Anglo
12:37:47 4 population that we'd been observing in other ACS data, and as I
12:37:51 5 mention here, what I just described, the lag that is built into
12:37:56 6 the 5-year data, the Benchmark SD-10 as it existed was almost
12:38:03 7 certainly a majority-minority CVAP district by 2020. And that
12:38:09 8 is because we're observing very rapid changes in the Anglo and
12:38:15 9 non-white population. The non-white population was increasing
12:38:21 10 very quickly, and looking at those 5-year ACS product every
12:38:27 11 year, so there's not just a '15 to '19. There's a '14 to '18
12:38:32 12 and there is a '13 to '17. So they just slide it, so you always
12:38:37 13 have 5 years, but it gets a year newer. And so looking at that
12:38:42 14 over time you can see very strong trends just as in the 1-year
12:38:48 15 data. And just like the rest of Tarrant County and the State of
12:38:52 16 Texas, there's very observable trends in a decline in the Anglo
12:39:00 17 population and the Anglo citizen adult population. And so this
12:39:05 18 last sentence suggests that, in fact, this district is likely
12:39:10 19 majority-minority CVAP today.

12:39:14 20 Q. Now, when you look -- when you get the 2020 Decennial
12:39:21 21 Census are there things you look at in terms of comparing it to
12:39:25 22 the recent ACS reports to see what it tells you about how
12:39:29 23 accurate the ACS surveys were?

12:39:32 24 A. Yes. Each ACS, each individual ACS is a 2-percent
12:39:40 25 sample and a lot of refinements and adjustments are made by the

12:39:46 1 statisticians and demographers each year to hope to accurately
12:39:52 2 reflect the true population.

12:39:55 3 What the Census Bureau would tell us that true
12:39:57 4 population is the count that comes from the Decennial Census.
12:40:03 5 And so using the 1-year ACS, we can create the single 1-year
12:40:09 6 data point by race and ethnicity for the total population and
12:40:15 7 then compare it to the 2020 Census. And we can see whether or
12:40:18 8 not that linear pattern we're observing in the ACS continues?
12:40:25 9 Does the 2020 Census help us correct what we see in the
12:40:30 10 2-percent samples? Because the ACS, while a very good product
12:40:32 11 is only a 2-percent sample. So the 2020 Census we think of as
12:40:37 12 close to 100 percent, it allows us to correct or refine where
12:40:42 13 the ACS might have been a little too high or a little too low.

12:40:45 14 Q. And have you done that work?

12:40:47 15 A. Yes, that's a regular -- I would say probably every
12:40:50 16 demographer has done it, is doing that work. It's a regular
12:40:54 17 part of understanding census data as it relates to districting
12:40:58 18 plans.

12:40:59 19 Q. What are your conclusions there?

12:41:00 20 A. Well what we found across the entire State of Texas,
12:41:04 21 what we found to Tarrant County and what we found in SD-10,
12:41:08 22 specifically, was that the Anglo population was actually
12:41:15 23 declining at a much faster rate than what the ACS suggested.

12:41:23 24 MR. HILTON: Your Honor, I have to object here. This
12:41:25 25 is going beyond anything that's described in the report. It

12:41:28 1 does not describe in detail what he's attempting to do here.
12:41:32 2 Now the effect of this correction that he's done with ACS on
12:41:39 3 SD-10, it's not in nine -- (indiscernible).

12:41:41 4 JUDGE GUADERRAMA: So your objection is it's not
12:41:43 5 included in the report?

12:41:46 6 MR. HILTON: That's correct.

12:41:47 7 JUDGE GUADERRAMA: Mr. Dunn?

12:41:47 8 MR. DUNN: Your Honor, I'll read the last sentence of
12:41:51 9 paragraph 9. It says given the steady decline in Anglo share of
12:41:55 10 the district CVAP and lag in -- inherent in the 5-year ACS
12:41:58 11 estimates, Benchmark SD-10 is almost certainly a
12:42:03 12 majority-minority district by CVAP today. I believe that's the
12:42:07 13 opinion he's giving.

12:42:12 14 JUDGE GUADERRAMA: Well, he's talking about the
12:42:14 15 decline in the Anglo population, being much faster than what is
12:42:21 16 reflect in the ACS. I'm not sure all of that is reflected.

12:42:29 17 MR. DUNN: Understood, Your Honor.

12:42:30 18 JUDGE GUADERRAMA: So I'll sustain his objection and
12:42:32 19 limit it to what's in his report.

12:42:32 20 BY MR. DUNN:

12:42:38 21 Q. Let's move to paragraph ten. Paragraph ten you turn
12:42:44 22 to looking at some election data; is that right?

12:42:47 23 A. Yes.

12:42:48 24 Q. What do you observe there?

12:42:49 25 A. Well, after reviewing the racial and ethnic

12:42:54 1 demographics, the second question was whether or not SD-10 was
12:42:59 2 performing for minority candidates of choice. And here it
12:43:05 3 paragraph 10 I reviewed the most recent election of 2018 to
12:43:11 4 determine that the minority preferred candidate, in this case
12:43:18 5 Senator Powell, won the district and was preferred by minority
12:43:22 6 voters.

12:43:23 7 Q. On page 2 -- or excuse me -- page 5, you summarize
12:43:31 8 election results and data; is that right?

12:43:32 9 A. Yes. In this table, I summarize a number of elections
12:43:39 10 through the lens of SD-10. The primary election which I
12:43:45 11 highlight the election of Senator Powell, but then in this table
12:43:50 12 I turn to evaluating other elections to examine how this
12:43:58 13 district is performing, is it performing for minority candidates
12:44:01 14 of choice.

12:44:02 15 Q. And why select these elections?

12:44:05 16 A. This I believe is either the totality or close to the
12:44:10 17 totality of elections for statewide and other office that we
12:44:14 18 could evaluate for the last 2 years through the SD-10
12:44:19 19 boundaries. So I look at the 2018 and 2020 election for things
12:44:24 20 like President, U.S. Senate, Governor, but other statewide
12:44:33 21 elected offices tally which candidate got more votes and whether
12:44:38 22 they were minority preferred.

12:44:40 23 Q. And based on this analysis, who does the data show is
12:44:43 24 the candidate or preference or Senate District 10 voters under
12:44:49 25 the Benchmark map for the state Senate race?

12:44:52 1 A. There's no question that Senate District 10 is
12:44:57 2 performing as for minority candidates of choice.

12:45:02 3 In 2020, in ten out of ten elections, the minority
12:45:08 4 candidate of choice carried Senate District 10. In 2018, out of
12:45:16 5 13 additional elections, there were only four in which the
12:45:21 6 minority candidate of choice did not carry. Those were
12:45:26 7 extremely narrow.

12:45:27 8 So my conclusion was that in these 23 elections in
12:45:29 9 very recent years, including the election of Senator Powell,
12:45:33 10 herself, minority preferred candidates won this district
12:45:40 11 essentially in 20 out of 24 contests.

12:45:42 12 Q. Now if you're looking at older ACS data, for example
12:45:46 13 going back to 2015, why aren't you looking further back?

12:45:50 14 A. Here I'm most interested in the recent election
12:45:54 15 results to tell me about the current electorate; is the
12:45:57 16 electorate as composed today performing for minority candidates
12:46:02 17 of choice. This is particularly important because it has grown
12:46:07 18 no minority population, as we just reviewed. So these from my
12:46:11 19 perspective are the most relevant election.

12:46:15 20 Q. Now in the interest of clarity, what partisan
12:46:19 21 affiliation do candidates prefer from the minority population in
12:46:25 22 SD-10? What party affiliation?

12:46:28 23 A. According to the ecological inference analysis, which
12:46:30 24 I present later in this report, democratic candidates at the
12:46:35 25 local statewide as well as federal level are strongly preferred

12:46:41 1 by black and Hispanic votes.

12:46:43 2 Q. Now let's turn your attention to page six of your
12:46:47 3 report here. You take a look at plan S2168, the map that's
12:46:55 4 challenged in this proceeding, and what is it that you are
12:46:58 5 reporting in paragraph 11?

12:47:00 6 A. So after establishing in Section 2 that the current
12:47:04 7 Senate District is performing well for minority candidates of
12:47:09 8 choice as effective crossover district, in section three I now
12:47:13 9 start looking at the new boundaries of S2168 to assess how it's
12:47:20 10 going to perform by using many of the same population and
12:47:25 11 election results. And here the take away or conclusion is that
12:47:30 12 this new plan dilutes the minority votes. I believe I used the
12:47:38 13 "it cracks" the minority population, and it limits their
12:47:41 14 influence and ability to elect minority preferred candidates.

12:47:47 15 Q. On to paragraph 12, you report some similar Census
12:47:52 16 figures and ACS figures for the Benchmark Senate District 10 for
12:47:57 17 the new district. Can you describe those?

12:47:59 18 A. Yes. Again, here I start with total population. I
12:48:05 19 also review the adult voting population and then citizen voting
12:48:11 20 age population and contrasting with what we just reviewed above,
12:48:17 21 which was 61.5 percent minority, the new district as drawn is
12:48:25 22 49 percent Anglo, only 51 percent minority in total population,
12:48:29 23 so 10 point decline in the minority population.

12:48:35 24 The voting age population of the new district now
12:48:38 25 becomes majority Anglo whereas the old district had maintained

12:48:43 1 majority-minority status. The new district is 53.3 percent
12:48:49 2 Anglo adult population.

12:48:51 3 And then further looking at the citizen voting age
12:48:54 4 population, a see a stronger, large Anglo population voting
12:49:01 5 block at 62.2 contrasted with the existing district, which at
12:49:07 6 this point is majority-minority CVAP district.

12:49:10 7 Q. All right. Now turning to page seven, you provide
12:49:16 8 figure one. What are you showing there?

12:49:29 9 A. This is a map that I produced from Social Explorer.
12:49:37 10 It has Census block groups that are shaded in red or green based
12:49:45 11 on the percent white or percent non-white. And I then overlaid
12:49:50 12 a little black line that you can see going through part of
12:49:54 13 Tarrant and some of the other counties, which is Senate District
12:50:00 14 10 boundary in the new map. What this shows is that the
12:50:06 15 additional counties that were taken on are overwhelmingly Anglo
12:50:13 16 at the Census block group level. In the countywide level, many
12:50:17 17 cases over 80 or 90 percent Anglo in direct contrast to what I
12:50:25 18 describe as the core of Senate District 10, including parts of
12:50:29 19 Fort Worth and parts of Tarrant, which have a very large
12:50:34 20 population.

12:50:35 21 Q. Focussing in on Tarrant County, for clarity, making
12:50:39 22 sure everyone is with us, that's the upper right-hand county,
12:50:41 23 the colored portion of the map; is that true?

12:50:44 24 A. That's right. Where there's a large red shading
12:50:48 25 indicates a very small white population is predominantly there

12:50:55 1 in Fort Worth and outlining areas.

12:50:58 2 Q. What does it show in terms of the northern boundary of
12:51:00 3 the new District 10 in Tarrant County?

12:51:03 4 A. What it shows, and I have a zoom in on Tarrant later
12:51:08 5 in my report, what it shows in Tarrant County is that the
12:51:14 6 boundary line was drawn directly through the middle, the heart
12:51:19 7 of an otherwise large minority population. I mean, you can just
12:51:24 8 see a large red shading that is the minority population. These
12:51:32 9 are places that are 60, 70, 80 percent minority. They're all
12:51:38 10 near each other. They're geographically compact. And that
12:51:43 11 northern boundary of SD-10 draws a line through the middle,
12:51:48 12 which is what we refer to as cracking.

12:51:50 13 Q. On the next page there's a similar figure. What are
12:52:01 14 you showing here?

12:52:01 15 A. This is the counties and boundary that are included in
12:52:07 16 SD-22, which is an adjacent Senate District. Of course anytime
12:52:13 17 you change the boundaries of one, it's bound to change the next.
12:52:17 18 And what this shows is quite similar to SD-10, that there is
12:52:26 19 sometimes what we refer to as a finger that sticks up there in
12:52:31 20 Tarrant County on the eastern side of the county, just high
12:52:35 21 density minority populations shaded in red. That is then
12:52:41 22 connected again with multiple counties to its south, which are
12:52:45 23 overwhelmingly Anglo.

12:52:51 24 Q. Now in the following paragraphs on page eight, you
12:52:57 25 collect some specific information in regards to the changes --

12:53:01 1 quantifying the changes, starting in paragraph 15, what did you
12:53:08 2 report about the VTD changes?

12:53:09 3 A. Well here I'm discussing within Tarrant County how
12:53:15 4 many precincts or VTDs were moved and shifted and to which
12:53:20 5 following jurisdictions they were shifted. And what this
12:53:24 6 analysis shows is that while there had been a community holding
12:53:30 7 contained within Tarrant County, the new map shifted precincts
12:53:35 8 that were part of SD-10, and instead shifted them into, in this
12:53:41 9 case, SD-9 or SD-22. So shifting them out of what I have
12:53:47 10 identified as performing minority Senate map, Senate District
12:53:52 11 into others, so we see shifts. We see people getting pushed out
12:53:57 12 and moved around.

12:53:58 13 Q. In paragraph 16, you give some statistics on the
12:54:02 14 population changes. What is that? What are you reporting
12:54:05 15 there?

12:54:06 16 A. First the SD-10 was not how the of deviation by a
12:54:12 17 substantial amount, less than 1 percent over ideal size. It was
12:54:16 18 overpopulated, I believe, by just 5000 persons. So it had one
12:54:23 19 of the smallest amounts of deviation in the entire state at less
12:54:28 20 an a percent, yet, despite this, nearly 400,000 people, I think
12:54:35 21 identify 387,000, people are moved out of the district. So
12:54:41 22 that's a substantial portion of the people that are moved out of
12:54:44 23 the district. And then I gave the racial and ethnic breakdown
12:54:48 24 of those people that were moved.

12:54:50 25 Q. And then in paragraph 7, what was the racial breakdown

12:54:55 1 that you provided?

12:54:55 2 A. Well, in this case the population that was removed
12:55:00 3 from the district was majority-minority. It was 56 percent .4
12:55:07 4 [sic] minority, 43.6 percent Anglo with the largest group being
12:55:14 5 Hispanic at 31.6, black at 16.4 and Asian at 7.1.

12:55:22 6 Q. What did you report was the racial characteristics of
12:55:24 7 the population moved into the new drawing of Senate District 10?

12:55:28 8 A. Paragraph 17, I describe if they moved out 387,000
12:55:34 9 people, they had to move in, roughly, 387,000 people. In this
12:55:38 10 case slightly fewer; 377,000 people were moved into the
12:55:44 11 district. And this population was only 32.8 percent minority
12:55:50 12 and 67.2 percent Anglo. And so in this case, well over
12:55:58 13 50 percent of the people taken out of the SD-10 were minority
12:56:02 14 and a super majority of the people moved in, 67 percent were
12:56:07 15 Anglo.

12:56:09 16 Q. Assuming we're keeping our schedule, I think we're
12:56:13 17 going to break for lunch here, I'll just finish this section on
12:56:17 18 page nine. You report some additional information about the
12:56:21 19 characteristics of the changes to Senate District 10. What do
12:56:27 20 you report in paragraph 18?

12:56:28 21 A. So here I'm looking at the total number of people
12:56:29 22 moved. So as we said, 387,000 people were moved out; 377,000
12:56:35 23 were moved in. And that gives us roughly 764,000 people that
12:56:39 24 were moved around in a district that was not out of deviation,
12:56:43 25 and that it changed the composition of this district. It made

12:56:48 1 it 10 percent more Anglo and it converted it from a documented
12:56:53 2 majority-minority voting age population district to now a
12:56:57 3 majority Anglo voting age population district.

12:57:02 4 MR. DUNN: Your Honor, I think this might be a good
12:57:04 5 breaking point.

12:57:06 6 JUDGE GUADERRAMA: So we'll come back and start with
12:57:07 7 figure three and we'll have a new court reporter. You are not
12:57:11 8 going to have any more questions about figure 2?

12:57:14 9 MR. DUNN: No, sir.

12:57:14 10 JUDGE GUADERRAMA: Let's recess for lunch, be back at
12:57:18 11 2 o'clock. We'll resume our proceedings at 2 o'clock.

12:57:23 12 COURTROOM SECURITY OFFICER: All rise.

13 (Lunch break at 12:57 p.m.).

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I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

Signature: /s/KATHLEEN ANN SUPNET
Kathleen A. Supnet, CSR

February 23, 2022
Date

KATHLEEN A. SUPNET, CSR